

**D R A F T**

**UNIFORM STATE PROVISIONS &  
CLAUSES**

**for**

**Information Technology Management  
Office  
&  
State Procurement Office**

**Version 1.0  
(Released February 2006)**

**A COMPENDIUM OF STANDARDIZED PROVISIONS AND CLAUSES THAT ARE COMMONLY USED**

**[These provisions and clauses have been tailored for use in procurements conducted  
by ITMO or SPO pursuant to the South Carolina Consolidated Procurement Code.]**

This document does not create a binding procedure or create rights or obligations for or against the state.  
Rather, this document provides recommendations to assist state Procurement Officers in fulfilling their  
responsibilities.

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M. Award Statement	Built by APS automatically	n/a
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<b>Award</b>		
O. Record of Discussions	Appears in Part 11 as a Form in APS category 11FORM [DRAFT FORM!!!]	xxxx
P. APS Table of Clauses Appearing In Compendium	Exists only in an APS database	n/a
NOTE: APS is an acronym for the state's Automated Procurement System		

## INTRODUCTION

This document resulted from an effort to standardize our most commonly used provisions and clauses. The goal of the effort was to facilitate efficiency, quality control, and training.

The provisions and clauses appearing in this compendium have been approved for use by any Procurement Officer employed by the State Procurement Office or the Information Technology Management Office. This compendium is not a substitute for your professional judgment or legal advice.

## USER INFORMATION & INSTRUCTIONS

Every solicitation issued by ITMO or SPO must include the following exactly as they appear in this document: the Cover Page, Page Two, the Instructions to Offerors – General Instructions, and the Terms and Conditions – General. In addition, every solicitation must be organized in accordance with the Uniform Solicitation Format (see below). Solicitations conducted under 11-35-1529 (on-line), -1550 (small purchase), -1560 (sole source), -1570 (emergency), & -1575 (procurements at auction) are exempt from these two requirements.

Except as provided above, Procurement Officers may alter any clause. However, Procurement Officers are encouraged to consult with a supervisor, Chief Procurement Officer, or legal counsel before altering any form, provision or clause.

All of the provisions and clauses in this document have a unique title. Many of them have a parenthetical date appearing immediately after the title, e.g., "AWARD NOTIFICATION (AUG 2004)." Any time any provision or clause is revised, a new date will be assigned. These conventions allow those familiar with them to avoid rereading every provision or clause each time it is encountered. ACCORDINGLY, DO NOT INCLUDE EITHER THE TITLE OR THE PARENTHETICAL DATE UNLESS YOU ARE USING THE TEXT EXACTLY AS IT APPEARS HEREIN!

## GUIDANCE

Many of the provisions and clauses in this document are accompanied by guidance regarding when and how the provision or clause should be used.

## UNIFORM SOLICITATION FORMAT

The following outline has been adopted by ITMO and SPO to standardize the organization of all solicitation documents. Use of this format is mandatory.

- I. Scope of Solicitation
- II. Instructions to Offerors
  - A. General Instructions
  - B. Special Instructions
- III. Scope of Work / Specifications
- IV. Information for Offerors to Submit
- V. Qualifications
- VI. Award Criteria
- VII. Terms and Conditions

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- A. General
- B. Special
- VIII. Bidding Schedule / Cost Proposal
- IX. Attachments to Solicitation

Each item in the outline must be used in the solicitation document as a header for the appropriate contents of the solicitation. The provisions and clauses in this document have been organized according to this outline. For example, clauses that should appear under the heading "VI. Award Criteria" will appear in Part 6 of this document.

## GUIDANCE ON THE UNIFORM SOLICITATION FORMAT

[NOTE: "APS" is an acronym for the state's Automated Procurement System]

### Cover Page:

- (a) Header Block: APS will automatically insert text identifying the source selection method, e.g., Invitation for Bids, Request for Proposals, or Best Value Bid.
- (b) Description: APS will automatically insert text here. Your description should be a brief phrase that accurately identifies the supply or service to be acquired. You can elaborate on the description in your Scope of Services section.
- (c) Using Governmental Unit: From information you provided at the requisition header screen, APS will automatically insert the name of the agency you selected. If you have more than one agency, select the phrase "Statewide Term Contract" or "Multi-Agency (See Part I., Scope of Solicitation, for a complete list of Using Governmental Units)", as appropriate. If "Multi-Agency" is selected, the Procurement Officer must include a complete list of Using Governmental Units in Part I, Scope of Solicitation.
- (d) Submit Offer By: APS will automatically insert the date and time previously entered for your opening.
- (e) Number of Copies to be Submitted: Depending on your office, the Cover Page will automatically include one of the following five phrases. The Procurement Officer must insert a numeral for the "x" in either phrase.
  - (1) "One (1) original and (x) copies"
  - (2) "One (1) original and (x) copies (marked 'copy')"
  - (3) "One original in hard copy and (x) electronic copies (format specified herein)"
  - (4) "(x) identical electronic copies"
  - (5) "Upload one copy to the URL provided below"
- (f) Questions Must be Received By: Type in the date by which questions must be received. If you leave this blank, the Questions from Offerors provisions provide a default of five days prior to opening.
- (g) Award & Amendment: APS will insert the date that the award or notice of intent to award will be posted.
- (h) Conference Type: This clause will appear on the cover page of all procurements. If there is no conference, the phrase "None - Not Applicable" will be inserted next to "Conference Type". In the rare circumstance that you input multiple dates into APS for multiple conferences, APS will, below the "Date and Time" line, insert the phrase "Additional Conferences Are Scheduled. See Part II.B." For all conferences, APS will also insert the address the Procurement Officer previously selected.
- (i) Bid Acceptance Period: Immediately above the signature block, the Cover Page includes the following phrase: "You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date." The Procurement Officer should adjust the minimum as appropriate for the solicitation. If you are buying a commodity with a volatile price, 30 days may be too long. If you are doing a solutions based RFP for which price volatility is not an issue and you require 45 days just for the evaluation, 30 days may be too short. Thirty days is the default.
- (j) Addresses: The Cover Page includes address blocks for a "Mailing Address" and a "Physical Address". SPO uses a post office box for its mailing address. ITMO does not. Both provide their actual physical address, which facilitates delivery by private companies like UPS and FedEx. Lyne Bone, a long time SPO employee, provided the following explanation regarding why SPO uses a post office box in addition to a physical address: "Years ago, we only had the street address on our bids. When we moved

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here [to the South Trust building], the post office was not delivering the mail to this address in time for the [daily] 11 am bid opening, so we opened a box at the post office. You must have a "box" at the post office to be able to pick up mail and by picking it up, we receive it in time for 11 am bid openings. If any solicitation (or any mail) is addressed to the street address, they put it in our box to be picked up in the morning."

## Page Two:

Page Two is a new standard second page to all solicitations. The document should be self-explanatory.

### I. Scope of Solicitation:

(a) Brief Description: This section exists to provide a very brief introduction into the purpose of the solicitation. Ordinarily, the information provided in this section would be limited to a brief overview of the products or services to be acquired and which elaborates on the description appearing on the cover page. Often this information will be custom drafted.

Special Instructions on Statewide Term Contracts: The Procurement Officer must draft appropriate text for the "Scope" part of the solicitation that carefully defines the parameters of a statewide term contract. The clause entitled "Statewide Term Contract – Scope" provides that the scope of the statewide term contract is defined by the brief description included in this part of the solicitation.

(b) Maximum Contract Period: You may include a Maximum Contract Period here; however, you should add a notation that the dates provided are proposed dates only. (A Maximum Contract Period is not appropriate for one-time buys.) To help you, assorted clauses are available on this point.

(c) If a budget estimate or maximum is stated, that information (which is information that is rarely included in the solicitation) would go here. To help you, assorted clauses are available on this point.

### II.A. Instructions to Offerors – General Instructions:

These clauses are used, as a group, in all competitive procurements involving a written solicitation. Their use is mandatory. These clauses provide basic instructions to the vendor community regarding how to respond and how the process will be conducted. They provide a baseline set of procedures. Additions to or modifications of these baseline procedures are affected by adding provisions to the section labeled: II. Instructions to Offerors – B. Special Instructions. Note: The next version of this compendium should include a scaled down version of the General Instructions for use in small and/or simple procurements.

**Definitions:** Learn the definitions. To facilitate clarity and consistency, the definitions in Part II.A., Instructions to Offerors – General Instructions, should be used, as appropriate, in all clauses you custom draft. In other clauses, do not substitute new terms for defined terms. For example, the terms "State," "Using Governmental Unit," and "Ordering Entity" have been defined. The name of a particular agency, say DOT, should not be substituted for the term "State." Likewise, the term "agency" should not be used at all. Rather, use the term "State," "Using Governmental Unit," or "Ordering Entity" as appropriate.

### II.B. Instructions to Offerors – Special Instructions:

This section should be used to either add to or modify the baseline procedures established by the general instructions stated in the section labeled: II. Instructions to Offerors – A. General Instructions. The clauses in this category represent those clauses used frequently. The circumstances of any given procurement may warrant drafting a unique clause that differs from those available here.

**Mandatory Pre-Opening Conferences:** Requiring attendance at conferences prior to opening can substantially limit competition. In addition, mandatory attendance has limited benefits. First, offerors can be bound by the information they would acquire, whether or not they attend. Second, offerors can send a straw man - untrained staff that attends only to meet the requirement, but that does not benefit from attendance.

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## III. Scope of Work / Specifications:

(a) This section should contain any specifications for a commodity that are not directly included in the bid schedule. This section should also contain the scope of work for a services contract. Some paragraphs, e.g., performance bonds, insurance, delivery, may be appropriately placed in either this section or the section labeled VII. Terms and Conditions – B. Special. Each Procurement Officer will have to exercise their professional judgment. If the specifications are very limited and contained completely within the Bidding Schedule, it may be appropriate to leave this section blank, except for a clause that states “See attached Bidding Schedule,” or as appropriate, “See attached Price Proposal Form.”

(b) Frequently used clauses have been included in this category. However, these clauses are not appropriate for all situations.

## IV. Information for Offerors to Submit:

As appropriate, use this space to: (a) summarize and cross-reference to the other portions of this solicitation that call for offerors to submit documentation or information, (b) request information that will be used for evaluation, if that information has not been requested elsewhere, and (c) request information that does not fit appropriately in another section, e.g., information regarding minority subcontractors, or information on contractor's use of off-shore subcontractors. To help you, assorted clauses are available on this point.

## V. Qualifications:

Ordinarily, the Procurement Officer will include the basic clause entitled “Qualifications.” If specific information or documents are required, the clause entitled “Qualifications – Required Information” should be used. If the solicitation will be establishing mandatory minimum requirements for experience or other qualifications, the Procurement Officer should use the clause labeled “Qualifications – Mandatory Minimum.” Using this clause should be the exception, rather than the rule. Potentially, all three could be used.

Part 5, Qualifications, should not include post-award performance obligations. This area is only for requesting information or documentation that will be used to determine responsibility. For example, the following statement is a performance obligation that should appear in Part 3 (Scope of Work / Specifications), not a responsibility requirement for Part 5: “Contractor must maintain a service organization in Spartanburg adequate to service this contract.”

Do not simply cross reference to Part 3 (Scope of Work / Specifications) or Part 4 (Information for Offerors to Submit)!

**Requesting References:** Consider the following statement: “References: Offeror shall provide the names and contact information of three businesses for which contractor has provided, during the last three years, similar services for at least one year.” Assume the low bid is from a highly qualified firm that did not provide but two references. Must the bid be rejected? On one hand, the failure to provide references is a minor informality, which can be waived or corrected. Section 11-35-1520(13)(j) (identifying “failure of a bidder to furnish references” as a minor informality). On the other hand, failure to meet a mandatory minimum experience requirement requires rejection. When the two are drafted together, the confusion is obvious. You should not use a request for references to establish mandatory minimum qualifications. Use the recommended clauses in Part 5 to help avoid this problem.

**Pre-Award Responsibility Requirement v. Post-Award Performance Obligation:** Solicitations often fail to take this distinction into consideration. To illustrate, consider the following statement: “Qualifications: Offeror shall have no less than ten licensed nurses on staff.” Taken alone, this requirement probably creates a pre-award responsibility criteria, not a post-award performance obligation. As written, the successful offeror could have ten licensed nurses on staff the day of award and fire three of them the next day. Moreover, by eliminating any offeror with less than ten licensed nurses on staff, the

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solicitation has restricted competition; a very qualified firm that recently lost one of its ten long-term nurses might be disqualified, while a new firm that just hired ten new graduates would qualify. Either way, the requirement has done nothing to guarantee that the firm will maintain that staffing level. In contrast, the solicitation could have said nothing about pre-award qualifications (opening competition), but could have created an enforceable performance obligation. For example, the solicitation could have stated that "At all times during the term of this contract, contractor shall employ no less than ten full-time, properly licensed, registered nurses."

Legal Commentary: Regarding the distinction between definitive responsibility criteria and contractual performance obligations, see *Hettich GmbH and Co.*, KG, B-224,267, 1986 WL 64262, at 2 (Comp. Gen. October 24, 1986) ("Definitive responsibility criteria are specific and objective standards, established by an agency for a particular procurement, for use in measuring an offeror's ability to perform the contract; these special standards establish a precondition to award. Definitive responsibility criteria limit the class of offerors to those meeting specified qualitative and quantitative qualifications that the agency determines are necessary for adequate contract performance. Thus, definitive responsibility criteria involve a bidder's eligibility for award and not its performance obligations under the contract. In a strikingly similar case, *Johnson Controls, Inc.*, B-200466, Feb. 20, 1981, 81-1 CPD 120, the solicitation required that service personnel employed by the successful contractor for the repair and maintenance of a highly complex energy management and control system "be certified by the manufacturer's representative to be qualified to maintain the completely installed ... system." We found that this provision did not constitute a definitive responsibility criterion. We stated that such provisions, which state how and by whom the work is to be accomplished, are performance requirements and are to be distinguished from requirements which are preconditions of award. Here, the protester has not referred us to any RFP provision, and we have found none, which requires offerors to establish their specific qualifications in the area of boiler operations prior to award and as a prerequisite to award. Indeed, the protester's principal basis for protest rests upon post-award statements by the awardee that, without access to trained Hettich employees, it would be unable to secure the necessary certified personnel with which to perform the work in accordance with the terms of the contract. In our view, the cited RFP provisions are merely part of the general specifications concerning performance (how and by whom the work is to be accomplished) and do not establish a precondition to award.") (citations omitted).

**Experience of Staff v. Experience of Offeror:** Solicitations often state that offerors must meet certain minimum experience or qualification requirements. Applied literally, such statements are overbroad, unnecessarily restrict competition, and fail to consider the experience of the staff. For example, say John Doe has worked in Aiken for 25 years as the primary manager of ACME Janitorial Co.. He hired the janitors (many of whom come and go), acquired the supplies, and oversaw all operations. Mr. Doe moves to Columbia and opens his own business, Jan-Doe Cleaning, Inc. A requirement that offeror have 3 years experience might exclude Jan-Doe Cleaning, Inc., while allowing ACME Janitorial, Inc., which recently hired a new MBA with no management experience in the janitorial industry. In this scenario, the requirement did not serve its purpose – to acquire qualified vendors. Accordingly, if you create mandatory minimum qualifications, consider allowing an offeror to meet that requirement by relying on its staff.

Legal Commentary: Regarding the use of staff experience in determining responsibility, see *To the Nello L. Teer Company*, 1957 WL 1485, 36 Comp. Gen. 673, B- 130,910 (Comp.Gen. Mar 26, 1957) and *R. R. Mongeau Engineers, Inc.*, 1984 WL 44001, B- 213,330, 84-1 CPD P 333 (Comp.Gen., Mar 20, 1984) (We have recognized that an evaluation of a firm's corporate experience need not be limited to the time from which the corporation began its legal existence. See *Harry Kahn Associates, Inc.*, supra. It is not improper for an agency to consider the experience of a predecessor firm or of a corporation's principal officers which was obtained prior to the date the bidder was incorporated. In *Haughton Elevator Division, Reliance Electric Company*, supra, we held that experience gained by a corporation's officers before the date of the firm's incorporation could properly be considered by the contracting officer in making a determination whether the firm met an eligibility criterion which was similar to the eligibility criterion set forth in the present IFB.") (citations omitted).

**Subcontractor's Qualifications:** In determining whether an offeror is responsible, you may consider the qualifications of any applicable subcontractor identified in an offer.

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Legal Commentary: See *Contra Costa Electric, Inc.*, 1981 WL 24308, B- 200,660, 81-1 CPD P 196 (Comp.Gen., Mar 16, 1981) (explaining that a prime contractor may meet an experience requirement by having previously performed the necessary work with its own organization or by using the subcontractors now proposed); *Hardie-Tynes Manufacturing Company*, 1990 WL 269557, 69 Comp. Gen. 359, B-237,938, 90-1 CPD P 347 (Comp.Gen., Apr 02, 1990) ("The experience of a technically qualified subcontractor may be used to satisfy definitive responsibility criteria relating to experience for a prime contractor-bidder.")

## VI. Award Criteria:

(a) This section should contain the criteria that will be used for determining award and the evaluation factors used in any evaluation. This section should not be used for requesting information or documentation.

(b) Prior to drafting this section, you should **carefully** consider how the various possible responses will be evaluated.

(c) If you ask for pricing or cost information that will not be used either to determine the low bid or the highest ranked offeror, state that fact specifically. For example, if the price or cost of options on equipment is sought but will not be included in your evaluation, state something like "Option pricing will not be used to determine the lowest bidder. An offer may be rejected if option pricing is deemed unreasonable."

## VII. A. Terms & Conditions - General:

These clauses are used, as a group, in all competitive procurements involving a written solicitation. These clauses, which are applicable to all types of procurements, regardless of source selection method or item to be acquired, provide basic contract clauses regarding the contractor's *post-award performance obligations*. Additions to these baseline clauses should be included in the section labeled: VII. Terms and Conditions - B. Special. Note: The next version of this compendium should include a scaled down version of the General Terms and Conditions for use in small and/or simple procurements.

## VII. B. Terms & Conditions - Special:

These clauses are used as needed. The Procurement Officer must exercise professional judgment when deciding to include one of the following clauses. Guidance specific to each clause is provided in the table below.

## VIII. Bid Schedule / Price-Business Proposal:

(a) If you have a bid schedule, place it here.

(b) If you are including price as an initial evaluation criteria, request pricing information here.

(c) If you seeking a business proposal (which includes pricing information, but not as a separate evaluation factor), request that business proposal here.

(d) If you are not requesting any pricing information, include a statement that this section has been intentionally left blank.

## **ASSORTED GUIDANCE**

### Awards & Intent to Award:

Protest Rights: Every award or intend to award shall contain a statement of the bidders right to protest unless the amount of the award is below \$25,000. The document shall also contain the address of the appropriate chief Procurement Officer. [APS user note: The protest rights clause appearing in this compendium appears in APS as an object code to the Award template.



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Maximum Contract Period (Guidance For Contracts Other than a One Time Buy): As standard practice, a document labeled "Intent to Award" is issued for all contracts with a total or potential value in excess of \$50,000. As stated on its face, this document "becomes the official statement of award effective [on a date specified], unless otherwise suspended or canceled." For contracts with a total or potential value of \$50,000 or less, a document labeled "Statement of Award" is issued. Once the official statement of award is effective, contract formation has occurred. However, the effective date of award may or may not coincide with the contract period (though it usually does). As provided in the clause entitled "Term of Contract – Effective Date / Initial Contract Period", the effective date of a contract is the first day of the Maximum Contract Period as specified on the final statement of award. Accordingly, you should specify the Maximum Contract Period on all award statements.

## Cancellation:

Pre-Opening: If a solicitation is terminated prior to opening, notice of this action should be provided by issuing a final "amendment". [For APS users: After a "no award" solicitation amendment is issued, you must return to both the requisition and solicitation header page, and change the "status" indicator from "active" to "no award". Failure to do so disrupts APS's reporting capability.] Legal Authority: Section 11-35-1710.

Post-Opening: If a solicitation is terminated after opening, notice of this action should be provided by issuing an award statement labeled "no award". Clauses under the Award part of this compendium provide assorted appropriate clauses. Legal Authority: Section 11-35-1710 & R. 19-445.2065(b) or R. 19-445.2070.

Referring to Web Sites / Uniform Resource Locators: In preparing your solicitation, do not reference information posted on the internet unless the web site is maintained by your organization and you have a procedure in place to ensure the availability of that information for the duration of the contract. This guidance does not address posting solicitation documents on the internet.

Cost v. Price: When drafting your solicitation, be cognizant of the difference between cost and price. Cost is "actual expenses incurred in delivering a product, service, or construction; includes both direct and indirect costs, but does not include fee or profit for the vendor." In contrast, price is "the total amount, in money or other consideration, to be paid or charged for a commodity or service; normally includes all costs (direct labor, overhead, materials) and profit or fee." National Association of Governmental Purchasing, Inc., Dictionary of Purchasing Terms 22 & 62 (5th ed. 1998).

## **GUIDANCE ON TYPES OF CONTRACTS USED**

For purposes of consistency, Procurement Officers are encouraged to follow the following conventions regarding the types of procurements conducted:

**ONE-TIME PURCHASES:** This name identifies procurements for a one-time buy. The contract ends upon delivery and acceptance of a commodity, e.g., equipment, or upon performance of a one-time service, e.g., moving services. Such contracts may be for one or more agencies.

**AGENCY CONTRACTS:** This name identifies procurements conducted on behalf of a single state agency.

**MULTI-AGENCY CONTRACTS:** This name identifies procurements conducted on behalf of more than one state agency.

**STATEWIDE TERM CONTRACT (a/k/a "Term Contracts"):** This name identifies procurements conducted on behalf of all state and local public procurement units. Such contracts are "term contracts" as defined by 11-35-310(35); accordingly, use of these contracts are mandatory for all agencies governed by the procurement code. These contracts are usually indefinite quantity, multi-term contracts.

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**MULTI-TERM CONTRACTS:** This name identifies procurements with a duration in excess of one year. See Section 11-35-2030.

**INDEFINITE QUANTITY (IQ) CONTRACT:** An Indefinite Quantity Contract is "a contract type used when exact delivery times and/or quantities of goods or services required under the contract are not known when contract is awarded, but recurring need is anticipated; usually specifies minimum and maximum amounts that can be ordered within a stated time period." National Association of Governmental Purchasing, Inc., Dictionary of Purchasing Terms 41 (5th ed. 1998).

## GUIDANCE ON STANDARD SOLICITATION FORMS

ITMO and SPO have abandoned using standard solicitation forms, such as SPO's long standing use of the standard SPO RFP form. In order to facilitate efficiency and quality, ITMO and SPO now use standard groups of clauses that, in large measure, constitute a variety standard solicitation functions. Lists of the provisions and clauses that make up these standard groupings are included in Appendix – L, Standard Solicitation Groups – Decision Tree.

## GUIDANCE ON STANDARD FORMS & APPENDICES

Appendices – A, B, C, & D, Cover Pages MMO & Page Two: For guidance on these appendices, please see the guidance above under the heading Guidance on the Uniform Solicitation Format.

Appendix – E, Change Order Form: This form was first adopted in August 2004, and the form has not been changed since. Use of this form is mandatory. Use this form for all post-award modifications to a contract.

Appendix – F, Record of Negotiations: This form was first adopted in August 2004, and the form has not been changed since. Use of this form is mandatory. Sections 11-35-1520(10) and 11-35-1530(8) authorize certain negotiations. Use this form to memorialize any agreement regarding a change in either the state's or the vendor's contractual obligations..

Appendix – G, Instructions for Submitting Cost-Price Data (Table 15-2): For guidance on this appendix, please see the guidance that accompanies the clause entitled Pricing Data – Audit – Inspection.

Appendix – H, Instructions for Non-Resident Taxpayer Registration & I-312: For guidance on this appendix, please see the instructions appearing in the form.

Appendix – I, Offeror's Checklist: This form was drafted several years ago to help avoid defective bids and proposals. Use is not required.

Appendix – J, Standard Equipment Agreement: Always use this form in conjunction with the clause in Part 2B entitled Lease Form – Questions. This form must be used as required by Regulation R.19.445.2152(B)(1) and in Section 11-35-2010(2). By 2001 Act. No. 67, South Carolina adopted new Article 2A – Leases of the Uniform Commercial Code. This law is codified in Title 36, Chapter 2A and governs the leasing of personal property, such as equipment. In light of these changes, ITMO and SPO plan to revise the Standard Equipment Agreement. This process has not begun.

Appendix – K, Sample Low Bid Formulas: Usually, the results of a competitive sealed bid are determined by simply comparing a single price offered by each bidder. In some procurements, however, the "price" bid requires some formula or calculation. In conjunction with the clause entitled "Calculating the Low Bid", several sample low bid formulas have been included to illustrate this concept. Those examples appear in Appendix – K. Please also see the guidance above under the heading "VI. Award Criteria".

Appendix – M & N, Award Statement & Notice of Intent to Award: Use of these forms is required.

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Legal Comment: Any actual bidder “who is aggrieved in connection with” the award of a contract must submit a protest to the appropriate CPO within fifteen days of the date notice of the award is posted. The relevant notice period depends on the value of the contract that results from the solicitation, what the State is acquiring, and how the State chooses to proceed. For contracts with an actual or potential value of \$50,000 or less, the State may enter into a contract as soon as it identifies the successful vendor. Notice of its decision must be posted, but the notice need not be made in advance of contract formation. For contracts with an actual or potential value in excess of \$50,000, the State must wait sixteen days after the appropriate notice is given before it can enter into a contract with the successful vendor. The delay, which is often called the “intent period” or the “protest period,” provides competing vendors an opportunity to challenge the State’s actions before a contract is formed.

A review of section 11-35-1520(10) suggests that, when applicable, the State will post two different documents: one giving notice of the State’s intention to award a contract and another giving notice that the State is or has awarded a contract. However, the statute does not require any particular form or wording. Rather, the statute requires only that notice of certain actions is provided. As a matter of practice, the State ordinarily posts only one document for each procurement. For contracts with a value of up to \$50,000, the State usually posts a document denominated as an “Award Statement” or a “Notice of Award”. These documents are normally signed by the responsible procurement officer and may constitute the State’s acceptance of a vendor’s offer. For contracts with a value over \$50,000, the State usually posts a document denominated as a “Notice of Intent to Award”. The current form, which has been used for many years, explains that, sixteen days after the date it is posted, the Notice of Intent to Award “becomes” an award and serves as notice of the award. Regardless of which document is posted, the protest period begins with its posting.

Appendix – O, Record of Discussions: The following provisions of the Procurement Code authorize limited discussions with offerors. Reference: Sections 11-35-1520(8), 11-35-1525(6), 11-35-1528(6), and 11-35-1530(6). In addition, Section 11-35-1520(8) requires that such discussions “must be documented in writing by the procurement officer and shall be included with the bid.” The final results of such discussions should be memorialized using this form. [DRAFT Paragraph]

Appendix – P, APS Table of Clauses Appearing In Compendium: This appendix contains a complete listing of all the provisions and clauses appearing in this compendium. The clauses appear in the same order as they appear in both this compendium and in the Automated Procurement System (APS) used by SPO and ITMO. The appendix has three columns. The first column, labeled “CICatgCode”, is the APS clause category code. The second column, labeled “ClauseCode”, is just that – the clause code. The clause code appearing in this appendix parallels the clause codes used by both APS and this compendium. The third column, labeled “ClauseRemarks”, contains the clause name, which is occasionally abbreviated slightly.

## DISTRIBUTION OF THIS COMPENDIUM

This compendium will be maintained jointly by the State Procurement Office and the Information Technology Management Office. The most current release will be posted and maintained on the internet at [www.procurement.sc.gov](http://www.procurement.sc.gov).

## VERSIONS OF AND REVISIONS TO THIS COMPENDIUM

This compendium is only a first version. Many revisions will be made in the months and years to come. A unique version number will appear on the cover of each release of this compendium. The first number is the version number. The second number is the revision number. Versions will be updated by the

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intermittent release of interim revisions. Each revision will reflect all changes made since the last full version was released. (New text will be underlined. Deleted text will appear as ~~stricken~~.) When warranted by the number of revisions, a new version will be released. Changes from one version to the next will not be shown.

Notice of Changes: Each time a new revision or version is issued, notice of the change will be posted at [www.procurement.sc.gov](http://www.procurement.sc.gov) and communicated through SCAGPO, SCBO, and CIO Customer Newsletter.

You are encouraged to send suggestions for change. To help us efficiently catalog all such suggestions, please e-mail those suggestions to [compendium@mmo.state.sc.us](mailto:compendium@mmo.state.sc.us) with a subject line of "Suggestions for the Compendium".

Thank you.

## EXPLANATION OF COLUMNS

**Column 1 – Part # / APS Clause #:** This column provides two pieces of information: (a) a Part Number, which identifies the part of the Uniform Solicitation Format in which the clause should appear, and (b) an APS Clause Number, which is a unique number used by APS to identify the clause.

**Column 2 – Text of Clause:** This column represents the actual contents of APS.

TYPICAL CLAUSE FORMAT (MAR 2005): Each clause, in this format (including full title and date) will appear in this column.

**Column 3 – Guidance on Usage:** This column will be used for any guidance offered by management to the procurement staff regarding use of a clause.

**Column 4 – Legal:** Legal will use this column for notes regarding usage, purpose, history, source, approval, and legal research. The contents of this column is not subject to release under FOIA, is protected by the Attorney-Client Privilege, and is not intended for distribution beyond management.

**Column 5 – Ideas:** This section will be used by any authorized user to memorialize ideas regarding future changes. These changes will only be incorporated into columns one and two after management has made a collective decision. The contents of this column is not intended for public consumption. Ideas that are not directly related to the clauses may be appended to the end of this document in a separate table.

1	2	3
PART # ----- CLAUSE #	TEXT OF CLAUSE	GUIDANCE ON USAGE
	<b>PART 1</b>	
1 --- 1001	I. Scope Of Solicitation	Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation Format. See guidance on the Uniform Solicitation Format at the beginning of this document.
1 --- 1005	ACQUIRE SERVICES & SUPPLIES / EQUIPMENT (JAN 2006): The purpose of this solicitation is to acquire services and supplies or equipment complying with the enclosed description and/or specifications and conditions.	This clause is a very generic clause. Its purpose is only to inform Offerors at the beginning of the solicitation that the procurement

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		both services and supplies.
1 --- 1010	ACQUIRE SERVICES (JAN 2006): The purpose of this solicitation is to acquire services complying with the enclosed description and/or specifications and conditions.	This clause is a very generic clause. Its purpose is only to inform Offerors at the beginning of the solicitation that the procurement involves services only.
1 --- 1015	ACQUIRE SUPPLIES / EQUIPMENT (JAN 2006): The purpose of this solicitation is to establish a source or sources of supply for the purchase of new supplies and/or equipment as listed.	This clause is a very generic clause. Its purpose is only to inform Offerors at the beginning of the solicitation that the procurement involves supplies only.
1 --- 1020	BUDGET – DESIRED RANGE (JAN 2006): The Using Governmental Unit seeks to incur costs in the following range: _____.	Except in solutions based procurements, in which the scope of work is not concrete, use of this clause is discouraged. Use this clause to provide the vendors with an idea of the range the state is willing to spend.
1 --- 1025	BUDGET ESTIMATE (JAN 2006): The estimated budget for this project is \$_____. Offers in excess of this amount may be considered.	Use of this clause is discouraged. In general, the state seeks to have Offerors price their work against the scope of services, not against the state's budget.
1 --- 1030	BUDGET MAXIMUM (JAN 2006): The funds available for this project are limited to \$_____. If the price you offer exceeds this amount, your offer will be rejected as non-responsive.	Use of this clause is discouraged. In general, the state seeks to have Offerors price their work against the scope of services, not against the state's budget. If an Offeror submits a price in excess off the stated maximum, the offer must be rejected as non-responsive.
1 --- 1035	FUNDS NOT AVAILABLE (JAN 2006): The State's obligation under this contract is contingent upon the availability of funds from which payment for contract purposes can be made.	Use of this clause is strongly discouraged. Use this clause only if the agency anticipates, but does not yet have, grant, appropriated, or other funds at the time the solicitation is issued.
1 --- 1040	MAXIMUM CONTRACT PERIOD -- ESTIMATED (JAN 2006): [date inserted by APS]. Dates provided are estimates only. Any resulting contract will begin on the date specified in the notice of award. See clause entitled "Term of Contract – Effective Date / Initial Contract Period".	At the time of solicitation, agencies never know when the contract will actually begin. Often, evaluation takes longer than anticipated. Government politics can have an influence. Lastly, protests can delay an award. Occasionally, these delays result in emergency extensions to an existing contract. Accordingly, the solicitation specifies the maximum contract period to indicate both a desired start date and the maximum time for the contract.
	<b>PART 2A</b>	n/a
2a --- 2A001	II. Instructions To Offerors - A. General Instructions	Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation

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		Format. See guidance on the Uniform Solicitation Format at the beginning of this document.
2a --- 2A005	AMENDMENTS TO SOLICITATION (JAN 2004) (a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of Amendments: <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a> . (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.	Mandatory for all solicitations and amendments. (APS users: no longer use the existing "amendments" clause for amendments.) This clause instructs the vendors how to acknowledge receipt and agreement with solicitation amendments.
2a --- 2A010	AWARD NOTIFICATION (JAN 2004) Notice regarding the State's intent to award a contract will be posted at the location specified on the Cover Page. The date and location of posting will be announced at opening. If the contract resulting from this Solicitation has a total or potential value in excess of fifty thousand dollars, such notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the sixteenth day after such notice is given.	Mandatory for all solicitations.
2a --- 2A015	BID / PROPOSAL AS OFFER TO CONTRACT (JAN 2004) By submitting Your Bid or Proposal, You are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed.	Mandatory for all solicitations.
2a --- 2A020	BID ACCEPTANCE PERIOD (JAN 2004) In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing.	Mandatory for all solicitations.
2a --- 2A025	BID IN ENGLISH & DOLLARS (JAN 2004) Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.	Mandatory for all solicitations.
2a --- 2A030	BOARD AS PROCUREMENT AGENT (JAN 2004) (a) Authorized Agent. All authority regarding the conduct of this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement. (b) Purchasing Liability. The Procurement Officer is an employee of the Board acting on behalf of the Using Governmental Unit(s) pursuant to the Consolidated Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor and the Using Governmental Units(s). The Board is not a party to such contracts, unless and to the extent that the board is a using governmental unit, and bears no liability for any party's losses arising out of or relating in any way to the contract.	Mandatory for all solicitations.
2a	CERTIFICATION REGARDING DEBARMENT AND	Mandatory for all solicitations.

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<p>---</p> <p>2A035</p>	<p>OTHER RESPONSIBILITY MATTERS (JAN 2004)</p> <p>(a)(1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-</p> <p>(i) Offeror and/or any of its Principals-</p> <p>(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;</p> <p>(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and</p> <p>(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.</p> <p>(ii) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.</p> <p>(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).</p> <p>(b) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.</p> <p>(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offer must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror nonresponsible.</p> <p>(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of</p>	
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	<p>business dealings.</p> <p>(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default.</p>	
2a --- 2A040	<p>CODE OF LAWS AVAILABLE (JAN 2006): The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at <a href="http://www.scstatehouse.net/code/statmast.htm">http://www.scstatehouse.net/code/statmast.htm</a>. The South Carolina Regulations are available at: <a href="http://www.scstatehouse.net/coderegs/statmast.htm">http://www.scstatehouse.net/coderegs/statmast.htm</a>.</p>	Mandatory for all solicitations.
2a --- 2A045	<p>COMPLETION OF FORMS / CORRECTION OF ERRORS (JAN 2006): All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (Applicable only to offers submitted on paper.)</p>	Mandatory for all solicitations.
2a --- 2A050	<p>DEADLINE FOR SUBMISSION OF OFFER (JAN 2004) Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental bodies' mail room which services that purchasing office prior to the bid opening. [R.19-445.2070(H)]</p>	Mandatory for all solicitations.
2a --- 2A055	<p>DEFINITIONS (JAN 2004) EXCEPT AS OTHERWISE PROVIDED HEREIN, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION.</p> <p>AMENDMENT – means a document issued to supplement the original solicitation document.</p> <p>BOARD – means the South Carolina Budget &amp; Control Board.</p> <p>BUYER – means the Procurement Officer.</p> <p>CHANGE ORDER - means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.</p> <p>CONTRACT - See clause entitled “Contract Documents &amp; Order of Precedence.”</p> <p>CONTRACT MODIFICATION – means a written order signed by the Procurement Officer, directing the contractor to make changes which the changes clause of the contract authorizes the Procurement Officer to order without the consent of the contractor.</p> <p>CONTRACTOR - means the Offeror receiving an award as a result of this solicitation.</p> <p>COVER PAGE – means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.</p>	Mandatory for all solicitations. This clause should be the first clause in Part II.A.



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	<p>OFFER – means the bid or proposal submitted in response to this solicitation. The terms “Bid” and “Proposal” are used interchangeably with the term “Offer.”</p> <p>OFFEROR – means the single legal entity submitting the offer. The term “Bidder” is used interchangeably with the term “Offeror.” See bidding provisions entitled “Signing Your Offer” and “Bid/Proposal As Offer To Contract.”</p> <p>ORDERING ENTITY - Using Governmental Unit that has submitted a Purchase Order.</p> <p>PAGE TWO – means the second page of the original solicitation, which is labeled Page Two.</p> <p>PROCUREMENT OFFICER – means the person, or his successor, identified as such on the Cover Page.</p> <p>YOU and YOUR – means Offeror.</p> <p>SOLICITATION – means this document, including all its parts, attachments, and any Amendments.</p> <p>STATE – means the Using Governmental Unit(s) identified on the Cover Page.</p> <p>SUBCONTRACTOR – means any person having a contract to perform work or render service to Contractor as a part of the Contractor’s agreement arising from this solicitation.</p> <p>USING GOVERNMENTAL UNIT – means the unit(s) of government identified as such on the Cover Page. If the Cover Page names a “Statewide Term Contract” as the Using Governmental Unit, the Solicitation seeks to establish a Term Contract [11-35-310(35)] open for use by all South Carolina Public Procurement Units [11-35-4610(5)].</p> <p>WORK - means all labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations under the Contract.</p>	
2a --- 2A065	<p>DRUG FREE WORK PLACE CERTIFICATION (JAN 2004) By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.</p>	Mandatory for all solicitations.
2a --- 2A070	<p>DUTY TO INQUIRE (JAN 2004) Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror’s risk. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State’s attention.</p>	Mandatory for all solicitations.
2a --- 2A075	<p>ETHICS ACT (JAN 2004) By submitting an Offer, You certify that You are in compliance with South Carolina’s Ethics, Government Accountability, and Campaign Reform Act of 1991, as amended. The following statutes require special attention: (a) Offering, giving, soliciting, or receiving anything of value to influence action of public employee – Section 8-13-790, (b) Recovery of kickbacks – Section 8-13-790, (c) Offering, soliciting, or receiving money for advice or assistance of public official – Section 8-13-720, (d) Use or disclosure of confidential information – Section 8-13-725, and (e) Persons hired to assist in the preparation of</p>	Mandatory for all solicitations.

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	specifications or evaluation of bids – Section 8-13-1150.	
2a --- 2A080	OMIT TAXES FROM PRICE (JAN 2004): Do not include any sales or use taxes in Your price that the State may be required to pay.	Mandatory for all solicitations.
2a --- 2A085	PROTESTS (JAN 2004) Any prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest within fifteen days of the date of issuance of the applicable solicitation document at issue. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within fifteen days of the date notification of award is posted in accordance with this code. A protest shall be in writing, submitted to the appropriate chief Procurement Officer, and shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided. [§ 11-35-4210]	Mandatory for all solicitations.
2a --- 2A090	PUBLIC OPENING (JAN 2004) Offers will be publicly opened at the date / time and at the location identified on the Cover Page, or last Amendment, whichever is applicable.	Mandatory for all solicitations not conducted under 11-35-1550.
2a --- 2A095	QUESTIONS FROM OFFERORS (JAN 2004): (a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions must be received by the Procurement Officer no later than five (5) days prior to opening unless otherwise stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer – as soon as possible – regarding any aspect of this procurement, including any aspect of the Solicitation, that unnecessarily or inappropriately limits full and open competition.	Mandatory for all solicitations.
2a --- 2A100	REJECTION/CANCELLATION (JAN 2004) The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065.]	Mandatory for all solicitations.
2a --- 2A105	RESPONSIVENESS / IMPROPER OFFERS (JAN 2004)  (a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.  (b) Multiple Offers. Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted as a separate document. If this solicitation is a Request for Proposals,	Mandatory for all solicitations.

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	<p>multiple offers may be submitted as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal for each offer, if applicable.</p> <p>(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19-445.2070 and Section 11-35-1520(13)]</p> <p>(d) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. [R. 19-445.2070].</p> <p>(e) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.</p>	
2a --- 2A110	<p>RESTRICTIONS APPLICABLE TO OFFERORS (JAN 2004) Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of the state Ethics Act. (a) After issuance of the solicitation, <b><i>you agree not to discuss this procurement activity in any way with the Using Governmental Unit or its employees, agents or officials.</i></b> All communications must be solely with the Procurement Officer. This restriction may be lifted by express written permission from the Procurement Officer. This restriction expires once a contract has been formed. (b) Unless otherwise approved in writing by the Procurement Officer, <b><i>you agree not to give anything to any Using Governmental Unit or its employees, agents or officials prior to award.</i></b></p>	Mandatory for all solicitations.
2a --- 2A115	<p>SIGNING YOUR OFFER (JAN 2004) Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words "by its Partner," and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An</p>	Mandatory for all solicitations.

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	Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.	
2a --- 2A120	STATE OFFICE CLOSINGS (JAN 2004) If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the government office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at: <a href="http://www.scemd.org/myscgovweb/weather.html">http://www.scemd.org/myscgovweb/weather.html</a>	Mandatory for all solicitations.
2a --- 2A125	SUBMITTING CONFIDENTIAL INFORMATION (AUG 2002): (An overview is available at <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a> ) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected! If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to	Mandatory for all solicitations.

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	entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from the State withholding information that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.)	
2a --- 2A130	SUBMITTING YOUR OFFER OR MODIFICATION (JAN 2004) (a) Offers and offer modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means) – (1) Addressed to the office specified in the Solicitation; and (2) Showing the time and date specified for opening, the solicitation number, and the name and address of the bidder. (b) If you are responding to more than one solicitation, each offer must be submitted in a different envelope or package. (c) Each Offeror must submit the number of copies indicated on the Cover Page. (d) Offerors using commercial carrier services shall ensure that the Offer is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a)(1) and (2) of this provision when delivered to the office specified in the Solicitation. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation. (f) Offers submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.	Mandatory for all solicitations.
2a --- 2A135	TAX CREDIT FOR SUBCONTRACTING WITH MINORITY FIRMS (JAN 2004) Pursuant to Section 12-6-3350, taxpayers, who utilize certified minority subcontractors, may take a tax credit equal to 4% of the payments they make to said subcontractors. The payments claimed must be based on work performed directly for a South Carolina state contract. The credit is capped at \$25,000 per year or the total tax liability; whichever is lesser. The taxpayer is eligible to claim the credit for 6 consecutive taxable years beginning with the taxable year in which the credit is first claimed. There is no carry forward of unused credits. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be	Mandatory for all solicitations.

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	<p>attached to the contractor's income tax return. Taxpayers must maintain evidence of work performed for a State contract by the minority subcontractor. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. The subcontractor must be certified as to the criteria of a "Minority Firm" by the Governor's Office of Small and Minority Business Assistance (OSMBA). Certificates are issued to subcontractors upon successful completion of the certification process. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498. Reference: SC §11-35-5010 – Definition for Minority Subcontractor &amp; SC §11-35-5230 (B) – Regulations for Negotiating with State Minority Firms.</p>	
<p>2a --- 2A140</p>	<p>TAXPAYER IDENTIFICATION NUMBER (JAN 2004): (a) If Offeror is owned or controlled by a common parent as defined in paragraph (b) of this provision, Offeror shall submit with its Offer the name and TIN of common parent.</p> <p>(b) Definitions: "Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member. "Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.</p> <p>(c) If Offeror does not have a TIN, Offeror shall indicate if either a TIN has been applied for or a TIN is not required. If a TIN is not required, indicate whether (i) Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States; (ii) Offeror is an agency or instrumentality of a state or local government; (iii) Offeror is an agency or instrumentality of a foreign government; or (iv) Offeror is an agency or instrumentality of the Federal Government.</p>	<p>Mandatory for all solicitations.</p>
<p>2a --- 2A145</p>	<p>VENDOR REGISTRATION MANDATORY (JAN 2006): You must have a state vendor number to be eligible to submit an offer. To obtain a state vendor number, visit <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a> and select "New Vendor Registration." (To determine if your business is already registered, go to "Vendor Search".) Upon registration, you will be assigned a state vendor number. Vendors must keep their vendor information current. If you are already registered, you can update your information by selecting "Change Vendor Registration." (Please note that vendor registration does not substitute for any obligation to register with the South Carolina Secretary of State (803-734-2170) or the South Carolina Department of Revenue (803-898-5391 or 803-898-5804).</p>	<p>Mandatory for all solicitations.</p>

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2a --- 2A150	WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004) Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085.	Mandatory for all solicitations.
	<b>PART 2B</b>	n/a
2b --- 2B001	II. Instructions To Offerors – B. Special Instructions	Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation Format. See guidance on the Uniform Solicitation Format at the beginning of this document.
2b --- 2B005	Section Not Applicable – Intentionally Omitted	Use this clause if you have no special instructions.
2b --- 2B010	BID BOND (JAN 2006): Your offer must include either a bid bond issued by a surety or sureties licensed in South Carolina or a certified check. The amount of surety shall be five per cent (5%) of the total bid amount. This bid bond penalty may be expressed in terms of a percentage of the bid price or may be expressed in dollars and cents. If a certified check is submitted in lieu of a bid bond, it must be made payable to the Using Governmental Unit.	Optional. You should consult with senior staff or legal counsel before requiring a bid bond. Bid bonds are ordinarily appropriate only for competitive sealed bids and fixed price bids of substantial importance to the State.
2b --- 2B015	BOARD APPROVAL REQUIRED (JAN 2006): Any award is subject to prior approval by the Budget and Control Board. Board meetings are normally, but not always, held monthly.	Optional. Use of this clause should be limited to those situations where the law requires the Board's approval for some aspect of the procurement AND that approval has not been given prior to issuance of the solicitation.  Ordinarily, approval for the use of contracts in excess of seven years should be sought prior to issuance of the solicitation. See Section 11-35-2030(4).  Regarding approval for contracts involving a lease of real property, contact the Budget & Control Board's Office of General Services.
2b --- 2B020	CONFERENCE – PRE-BID/PROPOSAL – MANDATORY (JAN 2006): See "Conference Pre-Bid/Proposal" clause. Your failure to attend the conference shall result in rejection of your offer. Attendance will be evidenced by your representative's signature on the attendance roster.	Optional. Use of this clause is strongly discouraged. Mandatory conferences restrict competition, increase costs for vendors, and may result in losing a desired vendor. [Many times, an incumbent – believing that their on-site presence excuses their attendance – have been excluded from

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		<p>participating.]</p> <p><b>Do not publish the attendance roster in your amendments without approval of a supervisor.</b> Doing so does not further any state goals and it helps vendors determine which competitors they are competing with, which does not help the state get the best offers.</p>
<p>2b --- 2B025</p>	<p>CONFERENCE – PRE-BID/PROPOSAL (JAN 2006): Due to the importance of all offerors having a clear understanding of the specifications and requirements of this solicitation, a conference of potential offerors will be held on the date specified on the cover page. Bring a copy of the solicitation with you. Any changes resulting from this conference will be noted in a written amendment to the solicitation. Your failure to attend will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the State. The State assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available at the conference. Nor does the State assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.</p>	<p>Optional. Such conferences provide an opportunity for an interactive discussion regarding the state's requirements and any issues the vendors may have.</p> <p>You should not agree to anything in such a conference. All answers should be memorialized in a written amendment.</p>
<p>2b --- 2B030</p>	<p>CONTENTS OF OFFER - RFP - Solutions Based (JAN 2006): The following outline may be helpful in preparing your proposal. Your offer should address each of the areas outlined below (as applicable) and provide the information requested. As your offer will be evaluated based on the information you provide, failure to provide a complete and comprehensive presentation of your solution could negatively effect our evaluation of your offer.</p> <p>1. Executive Overview: Your offer should include a summary of the proposed solution that reflects your understanding of both the state's needs and how your solution will satisfy those needs. Please explain your overall approach to the management of this effort, including a brief discussion of the total organization (structure and relationships among personnel and consultants / subcontractors).</p> <p>2. Technical Overview: Your offer should include a summary of the proposed technical solution with enough detail to demonstrate an understanding of the current environment and scope of the project</p> <p>3. Detailed explanation of proposed solution</p> <p>3.1 Management</p> <p>3.1.1 Implementation schedule</p>	<p>Use of this clause is mandatory for ITMO Procurement Officers conducting a solutions based procurement.</p>



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	<p>3.1.1.1 from contract formation to installation and acceptance</p> <p>3.1.1.2 installation, testing, and pilot, as appropriate</p> <p>3.1.1.3 detailed staffing deployment schedule</p> <p>3.1.1.4 milestones and deliverables</p> <p>3.1.2 Project management practices, policies, and certifications</p> <p>3.1.3 Application development methodologies</p> <p>3.1.4 Subcontracting, outsourcing, offshore contribution (if any)</p> <p>3.1.5 Escalation policies, practices, and contacts</p> <p>3.2 Technical. As appropriate, provide a explanation and/or information about the following, in detail:</p> <p>3.2.1 Functional capabilities of the proposed solution, including all performance capabilities, specifications and response times.</p> <p>3.2.2 Technical information about proposed solution, including technical specifications of any proposed equipment or services</p> <p>3.2.3 Software, if any, including manufacturer, functional capabilities, warranties, support levels, and documentation (any applicable license agreements and documents reflecting offeror's authority to include such software).</p> <p>3.2.4 Services included in the proposal and otherwise available</p> <p>3.2.5 Environmental requirements for the proposed solution.</p> <p>3.2.6 Software development plan, interfaces documentation, data synchronization, and replication plans, etc.</p> <p>3.2.7 Technical and operational manuals, by reference.</p> <p>3.3 Change Management. Who initiates change requests, what justifications and explanations are included, risks associated with change, approval process, etc.</p> <p>3.4 Installation and support.</p> <p>3.4.1 Installation – provide detailed information on the installation requirements and schedule.</p> <p>3.4.2 Training – explain any proposed training solution. Include plans for training new employees beyond the initial training cycle, employee readiness evaluations, training feedback, student-instructor ratios, duration of training, etc. Include plans for updating and maintaining training plans, system documentation, operational documentation, etc. For the duration of the implementation or term of the contract as appropriate. Include any other training solutions that are available.</p>	
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	<p>3.4.3 Support services including hardware and software maintenance – include an explanation of any proposed support services including performance guarantees. Identify all proposed maintenance including a detailed explanation of response times. Include any forms or agreements.</p> <p>3.4.4 Data conversion requirements should include who is responsible for developing any data conversion programs, what the acceptable level of conversion, how many records are to be converted, who is responsible for entering any records that do not convert properly, etc.</p> <p>3.4.5 Service level agreements (SLA) with performance commitments. If appropriate, include industry standard response times and performance requirements for normal business processing and/or critical business processing as appropriate.</p> <p>3.4.6 Disaster recovery plans should be included, as appropriate.</p> <p>3.4.7 Back-up plans for proposed network, data, and systems outages and disruptions, if appropriate.</p> <p>3.4.8 Warranties – include all functional, performance, and quality of workmanship warranties. Describe acceptable warranty performance specifications and warranty performance reporting to include number of calls, number and type of repairs and changes, etc.</p> <p>3.5 Intellectual property: explain the ownership rights to all proposed intellectual property.</p> <p>3.6 Staffing</p> <p>3.6.1 Contractor</p> <p>3.6.1.1 Key staff, their resumes, and areas of responsibility on this project</p> <p>3.6.1.2 Non-key staff, by number and areas of responsibility on this project</p> <p>3.6.1.3 State the number of state employees necessary and what training and skill levels are anticipated?</p> <p>3.6.2 Other – are there any other staffing requirements?</p> <p>3.7 Business proposals</p> <p>3.7.1 Total cost of ownership – provide anticipated cost of purchasing, owning, operating, maintaining, and supporting the proposed solution for the total potential term of the contract. Include a detailed accounting of the total cost of ownership.</p> <p>3.7.2 Risk analysis – identify the internal and external factors could significantly impact the probability of completing this project on time and within budget</p>	
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	<p>3.7.3 Risk mitigation – identify any actions that could be taken to mitigate the identified risks</p> <p>3.7.4 Risk sharing – identify any opportunities for mutually beneficial risk sharing</p> <p>3.7.5 Performance incentives – identify any opportunities for performance-based incentives</p> <p>3.7.6 Financing options – identify any alternative financing options available to the state</p> <p>3.8 Offeror's Qualifications. Provide the information requested by the following provisions: Qualifications – Required Information – SB Subcontractor – Identification</p>	
2b --- 2B035	<p>CONTENTS OF OFFER (RFP) - ITMO (JAN 2006): The contents of your offer must be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume.</p>	Use of this clause is mandatory for ITMO Procurement Officers conducting an RFP other than a solutions based procurement. sentence deleted because this instruction already covered in the magnetic media clause
2b --- 2B040	<p>CONTENTS OF OFFER (RFP) – SPO (JAN 2006): (a) Offers should be complete and carefully worded and should convey all of the information requested. (b) Offers should be prepared simply and economically, providing a straightforward, concise description of offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. (c) Each copy of your offer should be bound in a single volume where practical. All documentation submitted with your offer should be bound in that single volume. (d) If your offer includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your offer. Offers which include either modifications to any of the solicitation's contractual requirements or an offeror's standard terms and conditions may be deemed non-responsive and not considered for award.</p>	Use of this clause is mandatory for SPO Procurement Officers conducting an RFP.
2b --- 2B045	<p>DESCRIPTIVE LITERATURE – LABELLING (JAN 2006): Include offeror's name on the cover of any specifications or descriptive literature submitted with your offer.</p>	Optional.
2b --- 2B050	<p>DESCRIPTIVE LITERATURE – REQUIRED (JAN 2006): Your offer must include manufacturer's latest literature showing complete product specifications.</p>	Optional.
2b --- 2B055	<p>DISCUSSIONS WITH BIDDERS (JAN 2006) After opening, the Procurement Officer may, in his sole discretion, initiate discussions with you to discuss your bid. Discussions are possible only if your bid is apparently responsive and only for the purpose of clarification to assure your full understanding of the solicitation's requirements. Any discussions will be documented in writing and shall be included with the bid.</p>	Mandatory for IFB, FBP, BVBS
2b --- 2B060	<p>DISCUSSION WITH OFFERORS (JAN 2006): After opening, the Procurement Officer may, in his sole discretion, initiate discussions with you to discuss your offer. [Section 11-35-1530(6)]</p>	Mandatory for all RFPs solicitations.

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2b --- 2B065	LEASE FORM-QUESTIONS (JAN 2006): Use of the attached standard equipment agreement (form 80-SC-EL-1, revised 7/1/88) is required by Regulation 19-445.2152. No other lease form shall be used. Offerors may propose modifications to this agreement prior to the deadline for submitting questions (see cover page). Any modifications accepted will be noted in an amendment.	You must use this clause whenever you use the standard equipment agreement.
2b --- 2B070	MAGNETIC MEDIA – REQUIRED FORMAT (JAN 2006): As noted on the cover page, an original hard copy of your offer must be accompanied by the specified number of copies in the following electronic format: compact disk (CD) in one of the following formats: <b>CD-R; DVD ROM; DVD-R; or DVD+R</b> . Formats such as CD-RW, DVD-RAM, DVD-RW, DVD+RW, or DVIX <b>are not acceptable</b> and will result in the Offeror's proposal being rejected. Every CD must be labeled with offeror's name, solicitation number, and specify whether contents address technical proposal or business proposal. If multiple CD sets are provided, each CD in the set must be appropriately identified as to its relationship to the set, e.g., 1 of 2. Each CD must be identical to the original hard copy. File format shall be MS Word 97 or later.	Optional. When offers are submitted on magnetic media, concerns arise regarding the integrity of their submission. ITMO has determined that the formats identified in this clause address this concern.
2b --- 2B075	MAGNETIC MEDIA WITH DEMONSTRATION / PRESENTATION (JAN 2006): Compact discs included with your offer may include a demonstration of the proposed solution and/or a presentation of your offer. The following formats are acceptable: Power Point, .qt, .mpeg, .mpg, .miv, .asf, .asx, .ra, .ram, .rm, .rmm, .aif, .aifc., aiff, .mov, .avi, .au, .snd, or .wav formats. If you use another format, the compact disc must include a self-executing viewer or player, with instructions.	Optional.
2b --- 2B080	MAIL PICKUP (JAN 2006): The State Procurement Office picks up all mail from The US Postal Service once daily around 8:30 a.m. (excluding weekends and holidays). See provision entitled Deadline for Submission of Offer.	Use this only if you provide Offerors with a post office box address for the submission of bids and proposals.
2b --- 2B085	OFFERING BY ITEM (JAN 2006): Offers may be submitted for one or more items.	Optional.
2b --- 2B090	OFFERING BY ITEM OR LOT (JAN 2006): Offers may be submitted for complete lots or for one or more items not within lots. Failure to offer on all items within a single lot will be reason for rejection.	Optional.
2b --- 2B095	OFFERING BY LOT (JAN 2006): Offers may be submitted for one or more complete lots. Failure to offer on all items within a lot will be reason for rejection.	Optional.
2b --- 2B105	ON-LINE BIDDING INSTRUCTIONS (JAN 2006):  (a) Mandatory Registration: <b>For on-line bidding, you must register before you can submit a bid! See instructions in clause entitled "VENDOR REGISTRATION MANDATORY"</b> .  (b) Steps for On-Line Bidding:  #1 Click on the link provided on the solicitation's Cover Page. #2 Screen One: Enter your User Name and Password.	

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	<p>#3. Screen Two: &gt;You should see the item that you are bidding on in blue with an underscore. You will also see the words "Click on the item number to enter bid" in red. Click on an item on which you wish to bid. &gt; If you do not see an item on the screen, you are not registered or the information that you entered is not correct. &gt; At this screen, you may upload / attach any document file you wish to submit with your bid by clicking on the words "Attach a file to your bid."</p> <p>#4 Screen Three: This screen will provide you an opportunity too review the applicable state terms and conditions. Once you click on the appropriate button to accept these provisions, another screen will open.</p> <p>#5 Screen Four: At this screen, enter your pricing and submit your bid. Important: Take note of the applicable unit of measure and enter your price accordingly. If you enter your price incorrectly, your bid will be rejected as non-responsive. Price corrections are not allowed after opening. &gt; This screen provides a place to claim the resident vendor preference outlined in the provision entitled "PREFERENCES – SC RESIDENT VENDOR PREFERENCE". If you qualify for the preference, make sure to check the boxes provided.</p> <p>#6 Screen Five: To view what you have submitted, close the bidding screen, which will take you back to the main items menu. Look at the top of the page. You will see a tab that says "List Responses". If you click on this tab, it will show you what you have submitted on that Solicitation.</p>	
2b --- 2B110	OPENING PROPOSALS – PRICES NOT DIVULGED (JAN 2006): In competitive sealed proposals, prices will not be divulged at opening. [§ 11-35-1530 & R. 19-445.2095(c) (1)]	The law provides that the contents of proposals submitted in response to an RFP is not released at opening. However, use of this clause is optional.
2b --- 2B115	PRICE AS DISCOUNT (JAN 2006): Your price must be in the form of a single percentage discount to apply to a catalog, price sheet, or price schedule as described.	Optional.
2b --- 2B120	PROTEST – CPO - ITMO ADDRESS (JAN 2006): Any protest must be submitted in writing to the Chief Procurement Officer, Information Technology Management Office, 4430 Broad River Road, Columbia, SC 29210.	All solicitations must include the address of the appropriate chief Procurement Officer.
2b --- 2B122	PROTEST – CPO - MMO ADDRESS (JAN 2006): Any protest must be submitted in writing to the Chief Procurement Officer, Materials Management Office, 1201 Main Street, Suite 600, Columbia, SC 29201.	All solicitations must include the address of the appropriate chief Procurement Officer.
2b --- 2B125	QUALIFIED PRODUCTS LIST (JAN 2006): Offer only products that are on the qualified products list.	Optional.
2b --- 2B135	<p>SAMPLES (JAN 2006): Free samples may be required for testing and/or evaluation. If requested, your failure to provide a sample will result in rejection of your offer. You must send your sample to the Procurement Officer under separate cover, mark the solicitation number on the outside of the shipping carton, and tag each sample with your name and other pertinent information. The Procurement Officer must receive your samples prior to opening date.</p> <p>Send Sample To: Mark to attn of buyer listed on cover page.</p>	Optional.

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2b --- 2B135	SAMPLES-TESTING (JAN 2006): Free samples may be required for testing by an independent laboratory. If requested, your failure to provide a sample will result in rejection of your offer. Upon invoice, you agree to pay any reasonable cost incurred for this testing. Unless your sample is accompanied by a request for its return, your sample will not be returned. Your sample may be destroyed during testing.	Optional.
2b --- 2B140	SITE VISIT - BY APPOINTMENT (JAN 2006): Appointment for a site visit may be made by contacting: *                      at *	Optional.
2b --- 2B145	SITE VISIT – MANDATORY (JAN 2006): See Site Visit Clause. Your failure to attend site visit shall result in rejection of your offer.	Optional. Use of this clause is strongly discouraged. Mandatory site visits restrict competition, increase costs for vendors, and may result in losing a desired vendor. [Many times, an incumbent – believing that their on-site presence excuses their attendance – have been excluded from participating.]  <b>Do not publish the attendance roster in your amendments without approval of a supervisor.</b> Doing so does not further any state goals and it helps vendors determine which competitors they are competing with, which does not help the state get the best offers.
2b --- 2B165	SITE VISIT (JAN 2006): A site visit will be held at the following date, time and location. Your failure to attend will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the State. The State assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available at the conference. Nor does the State assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract. Date & Start Time: Location:	Optional. Site visits provide an opportunity for vendors to acquire information best learned by seeing the site. It also provides an opportunity for an interactive discussion regarding the state's requirements and any issues the vendors may have.  You should not agree to anything in a site visit. All answers should be memorialized in a written amendment.
2b --- 2B170	UNIT PRICES REQUIRED (JAN 2006): Unit price to be shown for each item.	Optional
	<b>PART 3</b>	
3 --- 3001	III. Scope of Work / Specifications	Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation Format. See guidance on the Uniform Solicitation Format at the beginning of this document.

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3 --- 3005	See Bidding Schedule	Include this item if you have no specifications other than what appears in the bidding schedule.
3 --- 3015	DELIVERY / PERFORMANCE LOCATION – PURCHASE ORDER (JAN 2006): After award, all deliveries shall be made and all services provided to the location specified by the Using Governmental Unit in its purchase order.	Optional. Cross-reference with provisions entitled “Purchase Order” and “Contract Documents & Order of Precedence”.
3 --- 3020	DELIVERY / PERFORMANCE LOCATION – SPECIAL (JAN 2006): Contractor shall deliver to: [Procurement Officer must identify a specific location, such as a shipping dock, building, or room number, if a postal address is inadequate.]	Optional. Remember to fill in the address.
3 --- 3025	DELIVERY DATE – 30 DAYS ARO (JAN 2006): Unless otherwise specified herein, all items shall be delivered no later than thirty days after contractor's receipt of the purchase order. If the using governmental unit requests delivery sooner than the time specified, contractor may invoice the ordering entity any additional shipping charges approved by the ordering entity on the purchase order.	Optional. Cross-reference with provisions entitled “Purchase Order” and “Contract Documents & Order of Precedence”.
3 --- 3030	DELIVERY / PERFORMANCE LOCATION - SPECIFIED (JAN 2006): After award, all deliveries shall be made and all services provided to the following address, unless otherwise specified:	Optional. [APS users. (a) APS inserts an address based on the selection you made at the requisition header. This clause replaces the clause which currently reads "Unless otherwise specified, all contractual deliveries shall be made to the following address:" (b) APS allows users to specify a unique shipping address for each line item in the bid schedule. When addresses are specified for each line item, APS will insert the phrase "See Bidding Schedule" below this clause, rather than a specific address.]
3 --- 3035	DELIVERY COSTS – EXEMPTION (JAN 2006): For individual orders involving less than \$* , contractor shall ship these orders prepaid, add the shipping charges to the invoice as a separate charge and include in the invoice total for payment by Using Governmental Unit.	Optional. Remember to fill in the blank.
3 --- 3040	DELIVERY DATE - SPECIFIED (JAN 2006): Delivery shall be made no later than *. Contractor may request approval to deliver items prior to the delivery date.	Optional. Remember to fill in the blank.
3 --- 3045	DELIVERY DATE – Purchase Order (JAN 2006): All items shall be delivered within ** days after receipt of purchase order.	Optional. Remember to fill in the blank. Use this clause for situations in which the "30 days ARO" will not work. For example, perishable items, such as certain medical supplies or food, may need to be delivered within 24 hours after receipt of purchase order.-
3 --- 3050	INSTALLATION (JAN 2006): Contractor shall install all items acquired pursuant to this contract as follows: [Procurement Officer to provide appropriate details].	Optional. Remember to fill in the blank.
3 ---	OPERATIONAL MANUALS (JAN 2006): Unless otherwise specified, contractor shall provide one operational manual	Optional.

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3055	for each item acquired.	
3 --- 3060	QUALITY – NEW (JAN 2006): All items must be new.	Optional.
3 --- 3065	QUALITY – REFURBISHED (JAN 2006): Items may be refurbished.	Optional. Procurement officer should provide a commodity-specific definition of “refurbished” because the term may have very different meanings depending on the industry or commodity.
3 --- 3070	QUALITY – USED: Items may be used.	Optional.
3 --- 3075	TECHNICAL SUPPORT – INCLUDED (JAN 2006): Upon request, contractor shall provide technical assistance or service. Such service shall be available within ____ hours following request.	Optional. Use this clause only for procurements that involve very limited technical support. For procurements involving any significant degree of support, use a specially drafted clause.
3 --- 3080	TRAINING (JAN 2006): Upon request, contractor shall demonstrate equipment within ____ days after delivery.	Optional. Use this clause only for procurements that involve very limited training. For procurements involving any significant degree of training, use a specially drafted clause.
	<b>PART 4</b>	
4 --- 4001	IV. Information For Offerors To Submit	Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation Format. See guidance on the Uniform Solicitation Format at the beginning of this document.
4 --- 4005	INFORMATION FOR OFFERORS TO SUBMIT - EVALUATION (JAN 2006): In addition to information requested elsewhere in this solicitation, offerors should submit the following information for purposes of evaluation:	Optional. Use this clause to identify information that will be evaluated in determining the award and which has not been requested in some other part of the solicitation. Examples: (a) Offeror’s explanation regarding how the scope of work will be performed or specifications will be met, (b) Offeror’s personnel, (c) Offeror’s experience, (d) Offeror’s internal operational procedures (e.g., disaster recover plan, maintenance schedules, training programs, human resource policies, staffing guides, etc.), (e) Documents published by Offeror (e.g., prospectus for publicly traded companies, cut sheets and product literature, white papers), (f) Test results (e.g., independent



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		<p>laboratory test results, benchmark results); and,  (g) Offeror's management structure.</p> <p><b>Caution: If you are asking for information under this clause, it must be tied to an evaluation criteria specified in the Award part of your solicitation.</b></p>
4 --- 4010	<p>INFORMATION FOR OFFERORS TO SUBMIT – GENERAL (JAN 2006): Offeror shall submit a signed Cover Page and Page Two. Offeror should submit all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in section IX. Attachments to Solicitations.</p>	<p>Mandatory for all solicitations. If you request information that will <u>not</u> be used for evaluation and that is not requested elsewhere, list that information under this clause with a general statement requesting its submission, e.g., "Please submit the following information:"</p> <p>Do not make the request mandatory unless you intend to reject the offer for failure to include such information.</p>
4 --- 4015	<p>MINORITY PARTICIPATION (JAN 2006)</p> <p>Is the bidder a South Carolina Certified Minority Business? <input type="checkbox"/> Yes <input type="checkbox"/> NO</p> <p>Is the bidder a Minority Business certified by another governmental entity? <input type="checkbox"/> Yes <input type="checkbox"/> NO</p> <p>If so, please list the certifying governmental entity:</p> <hr/> <p>Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor? <input type="checkbox"/> Yes <input type="checkbox"/> NO</p> <p>If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor? <input type="checkbox"/> Yes <input type="checkbox"/> NO</p> <p>Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? <input type="checkbox"/> Yes <input type="checkbox"/> NO</p> <p>If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor? <input type="checkbox"/> Yes <input type="checkbox"/> NO</p> <p>If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Traditional minority</li> <li><input type="checkbox"/> Traditional minority, but female</li> <li><input type="checkbox"/> Women (Caucasian females)</li> <li><input type="checkbox"/> Hispanic minorities</li> <li><input type="checkbox"/> DOT referral (Traditional minority)</li> <li><input type="checkbox"/> DOT referral (Caucasian female)</li> <li><input type="checkbox"/> Temporary certification</li> <li><input type="checkbox"/> SBA 8 (a) certification referral</li> <li><input type="checkbox"/> Other minorities (Native American, Asian, etc.)</li> </ul> <p>(If more than one minority contractor will be utilized in the performance of this contract, please provide the information</p>	

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	above for each minority business.)	
4 --- 4020	<p>OFFSHORE CONTRACTING (JAN 2006)</p> <p>Work that will be performed offshore by the Offeror and/or its subcontractors must be identified in the Offeror's response. For the purpose of this solicitation, offshore is defined as outside the 50 States and US territories. Offeror is to include an explanation for the following:</p> <p>(a) What type of work is being contracted offshore?</p> <p>(b) What percentage (%) of the total work is being contracted offshore?</p> <p>(c) What percentage (%) of the total value of the contract is being contracted offshore?</p> <p>(d) Provide a Service Level Agreement (SLA) demonstrating the arrangement between the off-shore contactor and the Offeror. <u>Attach Service Level Agreement to this document or paste here.</u> Data provided by the Offeror in regards to this clause is for information only and will not be used in the evaluation and determination of an award.</p>	
4 --- 4025	<p>RECYCLED PRODUCT (JAN 2006): Offeror shall identify which product(s) is made out of or contains recycled materials. This information will be used for future research</p> <p>Yes _____ No _____ (Items: _____)</p> <p>If the above applies to more than one item, please indicate above.</p>	
	<b>PART 5</b>	
5 --- 5001	V. Qualifications	Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation Format. You are strongly encouraged to study the general guidance on Part 5 (V. Qualifications) of the Uniform Solicitation Format at the beginning of this document.
5 --- 5005	<p>QUALIFICATION OF OFFEROR (JAN 2006) To be eligible for award of a contract, a prospective contractor must be responsible. In evaluating an Offeror's responsibility, the State Standards of Responsibility [R.19-445.2125] and information from any other source may be considered. An Offeror must, upon request of the State, furnish satisfactory evidence of its ability to meet all contractual requirements. Unreasonable failure to supply information promptly in connection with a responsibility inquiry may be grounds for determining that you are ineligible to receive an award. S.C. Code Section 11-35-1810.</p>	Mandatory. Include this paragraph in all procurements. This paragraph may be used in conjunction with any of the other paragraphs in Part 5.
5 --- 5010	<p>QUALIFICATIONS - MANDATORY MINIMUM (JAN 2006):</p> <p>(a) In order to be qualified to receive award, you must meet the following mandatory minimum qualifications: [Procurement Officer to Fill In.]</p> <p>(b) The Procurement Officer may, in his discretion, consider</p> <p>(1) the experience of a predecessor firm or of a firm's key personnel which was obtained prior to the date offeror was</p>	<p>Optional</p> <p>1. Use this clause to require that offerors meet certain mandatory minimum qualification requirements. When you write such requirements, make sure that (a) each requirement is very specific,</p>

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	<p>established, and/or (2) any subcontractor proposed by offeror.</p> <p>(c) Provide a detailed, narrative statement providing adequate information to establish that you meet all the requirements stated in subparagraph (a) above. Include all appropriate documentation.</p>	<p>(b) the decision regarding whether a vendor meets the requirement is an objective decision, one that does not involve the exercise of discretion or judgment, and (c) each requirement is mandatory. See the general guidance for Part 5.</p> <p>2. When you create mandatory minimum qualification requirements, you are establishing a special standard of responsibility. Offerors that do not have the required qualifications must be deemed non-responsible.</p> <p>3. The imposition of special standards limits competition. Section 11-35-2710 prohibits unduly restrictive requirements. Be prepared to defend why your minimum qualifications are necessary.</p> <p>4. If an offeror relies on its staff, a predecessor firm, or a proposed subcontractor to meet a minimum requirement, see the guidance on Part 5 at the beginning of this compendium.</p>
<p>5 --- 5015</p>	<p><b>QUALIFICATIONS – REQUIRED INFORMATION</b> (JAN 2006): In order to evaluate your responsibility, offeror shall submit the following information or documentation for the offeror and any subcontractor, if the value of subcontractor's portion of the work exceeds 10% of your price (if in doubt, provide the information):</p> <p>(a) Include a brief history of the offeror's experience in providing work of similar size and scope.</p> <p>(b) Your most current financial statement, financial statements for your last two fiscal years, and information reflecting your current financial position. If you have audited financial statements meeting these requirements, you must provide those statements. [Reference Statement of Concepts No. 5 (FASB, December, 1984)]</p> <p>(c) A detailed, narrative statement listing the three most recent, comparable contracts (including contact information) which you have performed and the general history and experience of your organization.</p> <p>(d) A list of every business for which offeror has performed, at any time during the past three year(s), services substantially similar to those sought with this solicitation. Err on the side of inclusion; by submitting an offer, offeror represents that the list is complete.</p> <p>(e) List of failed projects, suspensions, debarments, and significant litigation.</p>	<p>1. Use this clause to request any documentation or information you need to facilitate your determination of responsibility.</p> <p>2. Do not use this clause alone; it is intended to be used with the provision entitled Qualifications of Offeror.</p> <p>3. Subparagraph (c) asks for customer lists. The default is for three years. You may elect to ask for a longer or shorter time frame, as appropriate.</p> <p>4. If you find the standard requests to be inadequate, draft changes as appropriate. The following sample contents are provided for your convenience:</p> <p>- A detailed, narrative statement providing adequate information to establish that you meet all the requirements established by the provision entitled Qualifications – Mandatory Minimum. Include all appropriate documentation.</p>

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		<ul style="list-style-type: none"> <li>- A detailed, narrative statement explaining how offeror has available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or firm commitments to obtain them, necessary to meet all contractual requirements of this solicitation.</li> <li>- A detailed, narrative statement listing [all] [the three most] [the three most recent] comparable contracts (including contact information) which you have performed and the general history and experience of your organization.</li> <li>- A list of every business for which offeror has performed, at any time during the past [one] year(s), services [somewhat] [substantially] similar to those sought with this solicitation. Err on the side of inclusion; by submitting an offer, offeror represents that the list is complete.</li> <li>- A list of every business [governmental entity] for which offeror has performed services or provided supplies in South Carolina at any time during the past [five] years. By submitting an offer, offeror represents that the list is complete.</li> </ul>
5 --- 5030	SUBCONTRACTOR – IDENTIFICATION (JAN 2006): If you intend to subcontract with another business for any portion of the work and that portion exceeds 10% of your price, your offer must identify that business and the portion of work which they are to perform. Identify potential subcontractors by providing the business' name, address, phone, taxpayer identification number, and point of contact. In determining your responsibility, the state may evaluate your proposed subcontractors.	Optional. Use of this clause is encouraged for all procurements other than commodities.
	<b>PART 6</b>	
6 --- 6001	VI. Award Criteria	<p>Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation Format. See guidance on the Uniform Solicitation Format at the beginning of this document.</p> <p>In building this section, the following base clauses will serve as a starting point:</p> <ol style="list-style-type: none"> <li>1. Award Criteria – Bids</li> <li>2. Award Criteria – Fixed Price</li> </ol>

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		<p>Bidding</p> <p>3. Award Criteria – Proposals / Best Value Bids</p> <p>These clauses are intended to be used in conjunction with all other applicable clauses in this section.</p>
6 --- 6005	AWARD BY ITEM (JAN 2006): Award will be made by individual item.	Use this clause only in conjunction with the clause entitled AWARD CRITERIA – BIDS.
6 --- 6010	AWARD BY ITEM OR LOT (JAN 2006): Award will be made by individual items and/or complete lot(s).	Use this clause only in conjunction with the clause entitled AWARD CRITERIA – BIDS.
6 --- 6015	AWARD BY LOT (JAN 2006): Award will be made by complete lot(s).	Use this clause in conjunction with either of the following clauses, AWARD CRITERIA – BIDS, or AWARD CRITERIA – PROPOSALS / BEST VALUE.
6 --- 6020	AWARD CRITERIA – BIDS (JAN 2006): Award will be made to the lowest responsible and responsive bidder(s).	<p>Use this clause for all low bid IFBs.</p> <p>If appropriate, use this clause in conjunction with one of the following clauses: Award by Item, Award by Item or Lot, or Award by Lot. If the method for determining the low bid is not crystal clear, use in conjunction with the clause entitled CALCULATING THE LOW BID</p>
6 --- 6023	AWARD CRITERIA – FIXED PRICE BIDDING (JAN 2006): Award will be made to all responsive and responsible Offerors.	<p>Use this clause for all fixed price bids.</p> <p>If appropriate, use this clause in conjunction with the clause entitled Bids Received After Award – Fixed Price Bidding.</p>
6 --- 6025	AWARD CRITERIA – BEST VALUE BIDS (JAN 2006): Award will be made to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State.	<p>Use this clause in any best value bid.</p> <p>In a BVB, you must define the evaluation criteria. Accordingly, use this clause in conjunction with the evaluation clause entitled Evaluation Factors – Best Value Bids.</p>
6 --- 6030	AWARD CRITERIA – PROPOSALS (JAN 2006): Award will be made to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State.	<p>Use this clause in any request for proposals.</p> <p>In a RFP, you must define the evaluation criteria. Accordingly, use this clause in conjunction with the evaluation clause entitled Evaluation Factors – Proposals.</p>
6 --- 6035	AWARD TO MULTIPLE OFFERORS (JAN 2006): Award may be made to more than one Offeror.	Use as appropriate.

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6 --- 6040	AWARD TO ONE OFFEROR (JAN 2006): Award will be made to one Offeror.	Use as appropriate.
6 --- 6045	BIDS RECEIVED AFTER AWARD – FIXED PRICE BIDDING (JAN 2006): Offerors not responding to the initial solicitation may be added to the awarded vendors' list provided the bidder furnishes evidence of responsibility and responsiveness to the state's original fixed price bid as authorized by the solicitation.	Use as appropriate.
6 --- 6050	CALCULATING THE LOW BID	If appropriate, you must develop a unique formula to determine the low bid. Examples: [1. In determining the low bid, the price of the lot alternate will be compared against the sum of the price of the individual lots".]
6 --- 6055	CALCULATING THE LOW BID – MAINTENANCE (JAN 2006): In calculating the low bid, the price of your annual maintenance, less any included initial warranty period, will be considered.	
6 --- 6057	COMPETITION FROM PUBLIC ENTITIES (JAN 2006): If a South Carolina governmental entity submits an offer, the Procurement Officer will, when determining the lowest offer, add to the price provided in any offers submitted by non-governmental entities a percentage equivalent to any applicable sales or use tax. S.C. Code Ann. Regs 117-304.1 (Supp. 2004).	Include this provision if you have any expectation that a state agency will submit an offer.
6 --- 6060	EVALUATION FACTORS – BEST VALUE BID (JAN 2006): Offers will be evaluated using only the factors stated below. Numerical weightings are provided for each evaluation factor. All evaluation factors, other than cost (which must be at least 60%), will be considered prior to determining the effect of cost on the score for each offeror. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous. [INSERT FACTORS HERE]	By law, cost must be weighted at least 60%.  Best value bid evaluation factors may include, but are not limited to, any of the following statutory factors: (a) operational costs that the State would incur if the bid is accepted; (b) quality of the product or service, or its technical competency; (c) reliability of delivery and implementation schedules; (d) maximum facilitation of data exchange and systems integration; (e) warranties, guarantees, and return policy; (f) vendor financial stability; (g) consistency of the proposed solution with the state's planning documents and announced strategic program direction; (h) quality and effectiveness of business solution and approach;

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		<p>(i) industry and program experience;</p> <p>(j) prior record of vendor performance;</p> <p>(k) vendor expertise with engagement of similar scope and complexity;</p> <p>(l) extent and quality of the proposed participation and acceptance by all user groups;</p> <p>(m) proven development methodologies and tools; and</p> <p>(n) innovative use of current technologies and quality results.]</p>
6 --- 6065	<p>EVALUATION FACTORS – PROPOSALS (JAN 2006): Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous. [INSERT FACTORS HERE]</p>	<p>For any Competitive Sealed Proposal, the Procurement Officer must include the unique evaluation factors for this procurement. The request for proposals shall state the relative importance of the factors to be considered in evaluating proposals but shall not require a numerical weighting for each factor. Price may but need not be an evaluation factor.</p> <p>If you have two or more factors with the same weight, that fact must be communicated to the offerors.</p>
6 --- 6070	<p>NEGOTIATIONS (JAN 2006): The Procurement Officer may elect to make an award without conducting negotiations. However, after the offers have been ranked, the Procurement Officer may elect to negotiate price or the general scope of work with the highest ranked offeror. If a satisfactory agreement cannot be reached, negotiations may be conducted with the second, and then the third, and so on, ranked offerors to such level of ranking as determined by the Procurement Officer.</p>	<p>Mandatory. Use this paragraph in all competitive sealed proposals (RFPs).</p>
6 --- 6075	<p>UNIT PRICE GOVERNS (JAN 2006): In determining award, unit prices will govern over extended prices unless otherwise stated.</p>	<p>If Offerors are requested to provide both unit and extended prices, include this clause. If the Offeror miscalculates the extended price, unit price will govern.</p>
	<b>PART 7A</b>	
7a --- 7A001	<p>VII. Terms and Conditions – A. General</p>	<p>Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation Format. See guidance on the Uniform Solicitation Format at the beginning of this document.</p>
7a --- 7A004	<p>ASSIGNMENT (JAN 2006): No contract or its provisions may be assigned, sublet, or transferred without the written consent of the Procurement Officer.</p>	<p>Mandatory. Do not agree to an assignment without consulting with legal counsel or management.</p>
7a	<p>BANKRUPTCY (JAN 2006): (a) Notice. In the event the</p>	

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<p>--- 7A005</p>	<p>Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the contractor's insolvency, including the filing of proceedings in bankruptcy.</p>	
<p>7a --- 7A010</p>	<p>CHOICE-OF-LAW (JAN 2006): The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.</p>	<p>Mandatory. This clause must be included in every contract. This clause provides that the contract and disputes about it are governed by the laws of this state.</p> <p>(In case you're really interested, "choice of law" rules are those laws of a state which dictate which state's laws apply to a dispute.)</p>
<p>7a --- 7A015</p>	<p>CONTRACT DOCUMENTS &amp; ORDER OF PRECEDENCE (JAN 2006): (a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) documentation regarding the clarification of an offer [e.g., 11-35-1520(8) or 11-35-1530(6)], if applicable, (3) the solicitation, as amended, (4) modifications, if any, to your offer, if accepted by the Procurement Officer, (5) your offer, (6) any statement reflecting the state's final acceptance (a/k/a "award"), and (7) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (6) above shall apply notwithstanding any additional or different terms and conditions in either (i) a purchase order or other instrument submitted by the State or (ii) any invoice or other document submitted by Contractor. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.</p>	<p>Mandatory.</p> <p>This clause identifies those documents that form the contract. It also explains how to resolve any inconsistencies among the terms of those documents. Lastly, it explains that documents signed by agencies (using governmental units) are not enforceable.</p>
<p>7a --- 7A020</p>	<p>DISCOUNT FOR PROMPT PAYMENT (JAN 2006)</p> <p>(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt</p>	<p>Mandatory.</p> <p>This clause dovetails with the Prompt Payment form appearing on Page Two.</p> <p>If the agency can accommodate</p>



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	<p>payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.</p> <p>(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the state annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.</p>	<p>faster payments, you may wish to encourage potential Offerors to provide such discounts.</p>
<p>7a --- 7A025</p>	<p>DISPUTES (JAN 2006): (1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the Government regarding the Agreement is not a waiver of either the Government's sovereign immunity or the Government's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.</p>	<p>Mandatory. Use in all contracts.</p> <p>This clause provides that any disputes will be resolved by the chief Procurement Officer, a process required by law.</p> <p>This clause also provides how contractors will accept service of the papers required to initiate a law suit.</p> <p>(In case you're wondering, the "forum" in "choice-of-forum" is the forum in which disputes will be heard. With this clause, we choose the chief Procurement Officers as the forum, not to be confused with the "Roman Forum".)</p>
<p>7a --- 7A030</p>	<p>EQUAL OPPORTUNITY (JAN 2006): Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.</p>	<p>When applicable, federal regulations require the inclusion of certain clauses in state contracts.</p> <p>(a) Regarding contracts involving federally assisted construction contracts, see (1) 41 C.F.R. § 60-1.4; can be included by reference per § 60-1.4(b)(1),(d); automatically included per § 60-1.4(e); (2) 41 C.F.R. § 60-4.2; automatically included per § 60-4.9; (3) 41 C.F.R. § 60-4.3; automatically included per § 60-4.9.</p>

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		<p>(b) Regarding requirements for Disabled Veterans, see 41 C.F.R. § 60-250.5; can be included by reference per § 60-250.5(d); automatically included per § 60-250.5(e).</p> <p>(c) Regarding requirements for Disabled Individuals, see 41 C.F.R. § 60-741.5; can be included by reference per § 741.5(d); automatically included per § 60-741.5(e).</p> <p>(d) Legal office has notebook with CFR Title 41, Part 60, and the relevant provisions.</p>
7a --- 7A035	FALSE CLAIMS (JAN 2006): According to the S.C. Code of Laws § 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.	Mandatory This clause informs participants that criminal penalties may accompany any false claims made on the state.
7a --- 7A040	FIXED PRICING REQUIRED (JAN 2006): Any pricing provided by contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit contractor from offering lower pricing after award.	Mandatory. Use this clause in all solicitations, except in the very rare case of a cost reimbursement contract. Cost reimbursement contracts are defined in Section 11-35-1410(1) and governed by Section 11-35-2010.
7a --- 7A045	NON-INDEMNIFICATION (JAN 2006): Any term or condition is void to the extent it requires the State to indemnify anyone.	Mandatory. The SC Attorney General has repeatedly stated that the state cannot indemnify a vendor. This clause reflects that position.
7a --- 7A050	NOTICE (JAN 2006): (A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.	Mandatory. This clause applies only after award. Part (A) identifies those methods of services that the parties have agreed are adequate. Part (B) identifies the address to which the parties have agreed that notice may be sent.
7a --- 7A055	PAYMENT (JAN 2006): (a) The Using Governmental Unit shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless the purchase order specifies another method of payment,	<p>Mandatory.</p> <p>IMPORTANT NOTE. Partial payments are very appropriate for many types of contracts, especially service contracts. If payments will be made prior to full performance, the solicitation must explain the conditions upon which partial</p>

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	<p>payment will be made by check. (c) Payment and interest shall be made in accordance with S.C. Code Section 11-35-45. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable.</p>	<p>payment will be made. For example, a janitorial contract may provide that payments will be made on a monthly basis. Software development contracts might provide that payment will be made upon acceptance of certain intermediate deliverables or upon proof of a certain degree of project completion. In the absence of such a provision, this clause provides for payment upon completion.</p> <p>This clause allows the payment method to be dictated in the purchase order. However, since prospective contractors usually need to know this prior to submitting offers, this issue should be addressed in the solicitation.</p> <p>Cross Reference the Purchase Order clause.</p>
7a --- 7A060	<p>PUBLICITY (JAN 2006): Contractor shall not publish any comments or quotes by State employees, or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer.</p>	<p>Mandatory. Seek permission of management before providing a contractor with written approval under this paragraph.</p>
7a --- 7A065	<p>PURCHASE ORDERS (JAN 2006): Contractor shall not perform any work prior to the receipt of a purchase order from the using governmental unit. The using governmental unit shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.</p>	<p>Mandatory.</p> <p>Under this clause, purchase orders serve as a “notice to proceed”. Ordinarily, the state does not have a right not to issue a purchase order once a contract has been awarded.</p> <p>While purchase orders may not be used to alter the solicitation, certain critical issues are addressed only in purchase orders. Cross reference should be made to the following clauses:</p> <ol style="list-style-type: none"> <li>1. Delivery – Purchase Order</li> <li>2. Deliver – Time</li> <li>3. Contract Documents &amp; Order of Precedent</li> <li>4. Payment</li> <li>5. Definition</li> </ol>
7a --- 7A070	<p>SETOFF (JAN 2006): The state shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the state with regard to this contract, any other contract with any state department or agency, including any</p>	<p>Mandatory. This clause has implications when the state has claims against or amounts due from a contractor. Consult with legal counsel regarding this clause.</p>

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	contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the state for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.	
7a --- 7A075	SURVIVAL OF OBLIGATIONS (JAN 2006): The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit.	Mandatory. The implications of this clause are illustrated by the following example. If the state buys a widget and a warranty for the widget, the warranty does not end simply because the remainder of the contract is terminated for convenience.
7a --- 7A080	TAXES (JAN 2006): Any tax the contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to contractor, contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the contractor.	Mandatory.  Dovetails with clause entitled "Omit Taxes from Price".  Clause makes state liable for paying the taxes applicable to sale, use, or delivery of products provided under the contract.
7a --- 7A085	TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006): Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.	Mandatory for any procurement in which a contractual obligation may extend beyond the end of the fiscal year in which the contract is entered.
7a --- 7A090	THIRD PARTY BENEFICIARY (JAN 2006): This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise.	Mandatory. Include this clause unless the State intends that a direct beneficiary of the contractor's performance can sue the contractor to either enforce the contract or recover for breach. (A very, very rare occurrence!) The only contracts even eligible for such an approach would be contracts in which the Contractor was providing direct services to a group.
7a	WAIVER (JAN 2006): The State does not waive any prior or	This clause is intended to limit

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--- 7A095	subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing.	unintentional waivers of rights the state may have under a contract.
	<b>PART 7B</b>	
7b --- 7B001	VII. Terms and Conditions – B. Special	Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation Format. See guidance on the Uniform Solicitation Format at the beginning of this document.
7b --- 7B005	Section Not Applicable – Intentionally Omitted	
7b --- 7B010	ACCEPTANCE OF OFFERS 10% BELOW PRICE (JAN 2006): If the state is offered the exact same item on the exact same terms and conditions as those provided under this contract by a vendor other than the contractor (the "alternate vendor") for a price that is at least ten percent less than the contract price, the state may purchase those items from the alternate vendor if the contractor does not agree to meet the offered price. Any acquisition pursuant to this clause must be documented by the Procurement Officer in sufficient detail to satisfy the requirements of an external audit.	Include this clause in all, and only in, statewide term contracts. This clause reflects the rule created by Section 1-35-310(35), in the definition of "term contract".
7b --- 7B025	<p>CHANGES (JAN 2006):</p> <p>(1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:</p> <p>(a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;</p> <p>(b) method of shipment or packing;</p> <p>(c) place of delivery;</p> <p>(d) description of services to be performed;</p> <p>(e) time of performance (i.e., hours of the day, days of the week, etc.); or,</p> <p>(f) place of performance of the services.</p> <p>Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.</p> <p>(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the</p>	<p>This clause should be included in any contract with a value in excess of \$100,000 and in any contract with a potential value below that threshold if the state may need the authority to order changes to the contract.</p> <p><b>The Price Adjustments Clause must be used in conjunction with this clause.</b></p> <p>If you are conducting a procurement for a very large services contract involving customized services and the potential for many post-award contract modifications (such as a large information technology project involving either software development or significant configuration of existing software), consider engaging legal counsel to draft a more thorough changes clause, such as that found in OSE's standard modifications to Part 7 of the AIA A201 (1997).</p>

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	<p>contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.</p> <p>(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless the State is prejudiced by the delay in notification.</p> <p>(4) Claim Barred After Final Payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.</p>	<p>By definition, a "Contract Modification is "a written order signed by the Procurement Officer, directing the contractor to make changes which the changes clause of the contract authorizes the Procurement Officer to order without the consent of the contractor." Section 11-35-310(9).</p>
7b --- 7B030	<p>CISG (JAN 2006): The parties expressly agree that the UN Convention on the International Sale of Goods shall not apply to this agreement.</p>	<p>Recommended for all contracts for the sale of goods. In contracts involving an international sale of goods, the UN Convention on the International Sale of Goods (CISG) governs the rights of the parties and trumps local law such as the Uniform Commercial Code (UCC). CISG expressly allows parties to opt out of CISG. By doing so, the parties rights would be governed by the UCC. Include this clause any time your acquisition may involve a foreign vendor.</p>
7b --- 7B035	<p>COMPLIANCE WITH LAWS (JAN 2006): During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.</p>	<p>Optional. This clause makes the contractor's compliance with applicable laws a contract performance obligation.</p>
7b --- 7B040	<p>CONFERENCE – PRE-PERFORMANCE (JAN 2006): Unless waived by the Procurement Officer, a pre-performance conference between the contractor, state and Procurement Officer shall be held at a location selected by the state within five (5) days after final award, and prior to commencement of work under the contract. The responsibilities of all parties involved will be discussed to assure a meeting of the minds of all concerned. The successful contractor or his duly authorized representative shall be required to attend at contractor's expense .</p>	<p>Optional.</p>
7b --- 7B045	<p>CONTRACT LIMITATIONS (JAN 2006): No sales may be made pursuant to this contract for any item or service that is not expressly listed. No sales may be made pursuant to this contract after expiration of this contract. Violation of this provision may result in termination of this contract and may subject contractor to suspension or debarment.</p>	<p>Optional. This clause is recommended for all Indefinite Quantity Contracts, such as statewide term contracts.</p>
7b --- 7B050	<p>CONTRACT REPORTING REQUIREMENTS (JAN 2006): Information Technology Management Office (ITMO) Monthly Reporting Requirements <a href="#">Electronic Contract Usage Report System</a></p>	<p>For ITMO use only, with statewide term contracts.</p>

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	<p>The CONTRACTOR will be required to process monthly usage reports electronically through the ITMO On-Line Vendor Usage Reporting System located at <a href="http://cio.state.sc.us/itmo/main.htm">http://cio.state.sc.us/itmo/main.htm</a></p> <p>At the above web site, please select <a href="#">Online Contract Usage Reporting</a> and follow the instructions for registering and reporting. All “sales” must be reported. If “No Sales” are achieved for a specific month, then “Zero” (0) must be reported for that specific month. Failure to report your monthly activity is grounds for cancellation of your contract. Help menus are available. If personal assistance is required please contact the procurement official listed on the front page of this solicitation.</p>	
<p>7b --- 7B055</p>	<p>CONTRACTOR'S LIABILITY INSURANCE (JAN 2006): (1) Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in South Carolina such insurance as will protect the contractor from the types of claims set forth below which may arise out of or result from the contractor's operations under the contract and for which the contractor may be legally liable, whether such operations be by the contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the work to be performed; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of the contractor's employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than the contractor's employees; (d) claims for damages insured by usual personal injury liability coverage; (e) claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; (g) claims for bodily injury or property damage arising out of completed operations; and (h) claims involving contractual liability insurance applicable to the Contractor's obligations under the provision entitled Indemnification – Third Party Claims.</p> <p>(2) Coverage shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the work until date of final payment. Coverage must include the following on a commercial basis: (i) Premises – Operations, (ii) Independent Contractor's Protective, (iii) Products and Completed Operations, (iv) Personal and Advertising Injury, (v) Contractual, including specific provision for contractor's obligations under the provision entitled Indemnification – Third Party Claims, (vi) Broad Form Property Damage including Completed Operations, and (vii) Owned, Non-owned and Hired Motor Vehicles.</p> <p>(3) The insurance required by this paragraph shall be written for not less than the following limits of liability or as required</p>	<p>You should include this clause if you anticipate the contractor will perform <u>substantial</u> services on state property or in a state building.</p> <p>Given the generic types of coverage and the low limits of coverage stated, the insurance required should be readily available in most circumstances. However, If you become aware that the target vendor community will experience difficulty with this insurance requirement, appropriate adjustments may be necessary. Consult with your management.</p> <p>This clause is intended to cover routine service contracts. There will always be contracts which are unusual or have unusual insurance requirements (examples: implosion of a building, a contract for medical services for inmates, or a contract to handle hazardous waste). If you suspect your procurement may involve special insurance needs, consult with the appropriate subject matter experts (internal risk management staff, legal counsel, the Insurance Reserve Fund, or your general liability carrier, as appropriate).</p> <p>In the event you use this clause on a statewide term contract, the named insured should be as follows: State of South Carolina, including all public procurement units (S.C. Code Section 11-35-4610).</p>

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	<p>by law, whichever coverage is greater.:  COMMERCIAL GENERAL LIABILITY:  General Aggregate (per project) \$1,000,000  Products/Completed Operations \$1,000,000  Personal and Advertising Injury \$1,000,000  Each Occurrence \$1,000,000  Fire Damage (Any one fire) \$ 50,000  Medical Expense (Any one person) \$ 5,000  BUSINESS AUTO LIABILITY (including All Owned, Nonowned, and Hired Vehicles):  Combined Single Limit \$1,000,000  OR  Bodily Injury &amp; Property Damage (each) \$750,000  WORKER'S COMPENSATION:  State Statutory  Employers Liability \$100,000 Per Acc.  \$500,000 Disease, Policy Limit; \$100,000 Disease, Each Employee  (4) Required Documentation. (a) Prior to commencement of the work, contractor shall provide to the state a signed, original certificate of liability insurance (ACORD 25). The certificate shall identify the types of insurance, state the limits of liability for each type of coverage, include a provision for 30 days notice prior to cancellation, name every applicable using governmental unit (as identified on the cover page) as a Certificate Holder, provide that the general aggregate limit applies per project, and provide that coverage is written on an occurrence basis. (b) Prior to commencement of the work, contractor shall provide to the state a written endorsement to the contractor's general liability insurance policy that (i) names every applicable using governmental unit (as identified on the Cover Page) as an additional insured, (ii) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named governmental unit(s) has been given at least thirty (30) days prior written notice, and (iii) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of the state as secondary and noncontributory. (c) Both the certificate and the endorsement must be received directly from either the contractor's insurance agent or the insurance company.  (5) Contractor shall provide a minimum of thirty (30) days written notice to every applicable using governmental unit of any proposed reduction of coverage limits (on account of revised limits or claims paid under the General Aggregate) or any substitution of insurance carriers.  (6) The state's failure to demand either a certificate of insurance or written endorsement required by this paragraph is not a waiver of contractor's obligations to obtain the required insurance.</p>	
7b --- 7B060	<p>CONTRACTOR PERSONNEL (JAN 2006): The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to</p>	<p>Recommended for any contract involving the presence of contractor's employees or subcontractors on property controlled by the state.</p>



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	them.	
7b --- 7B065	CONTRACTOR'S OBLIGATION – GENERAL (JAN 2006): The contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.	Recommended for all contracts involving the provision of services.
7b --- 7B067	CONTRACTOR'S USE OF STATE PROPERTY (JAN 2006): Upon termination of the contract for any reason, the State shall have the right, upon demand, to obtain access to, and possession of, all State properties, including, but not limited to, current copies of all State application programs and necessary documentation, all data, files, intermediate materials and supplies held by the contractor. Contractor shall not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by the State without the State's written consent, except to the extent necessary to carry out the work.	If the state will provide the contractor with state-owned property during performance of the contract, include this clause.  Cross-reference the Ownership of Data & Materials clause.
7b --- 7B070	DAMAGES LIMITATION (JAN 2006): Contractor's maximum liability, if any, to the State for all direct, indirect, incidental, punitive, consequential, or special damages, including without limitation contract damages and damages for injuries to persons or property, whether arising from licensor's breach of this agreement, breach of warranty, negligence, strict liability, or other tort, or otherwise with respect to the supplies, services, or software provided under this agreement, shall in no event exceed an amount equal to the total contract price. In no event shall any party be liable to another for any indirect, incidental, punitive, consequential, or special damages, including, without limitation, lost revenues and profits, even if it has been advised of the possibility of such damages. The above limitations of this clause do not apply to any claim for intellectual property infringement or to the clauses entitled "Indemnification – Third Party Claims" or "Intellectual Property Infringement".	<b>This clause severely limits the damages the state may seek from a contractor. This clause should only be used with professional legal advice and only in software contracts involving commercial-off-the-shelf software. If you use this clause, also use the Indemnification – Third Party Claims clause.</b>
7b --- 7B075	DEFAULT (JAN 2006):  (a)(1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to-  (i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;  (ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or  (iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).	Optional. Use this clause for clauses with an expected value in excess of \$100,000. [An amount should be specified. FYI - \$100,000 is the small acquisition threshold for the federal acquisition regulations – Part 13.] For contracts below this threshold, use the Short Version.  A "termination for cause," "termination for default," or "Default" clause is NOT essential. Under the common law, parties can terminate a contract without such a clause. Nevertheless, a Default

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	<p>(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.</p> <p>(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.</p> <p>(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.</p> <p>(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.</p> <p>(e) If this contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.</p> <p>(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause.</p>	<p>clause does have benefits.</p>
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	<p>The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.</p> <p>(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.</p> <p>(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.</p>	
7b --- 7B080	<p>DEFAULT – SHORT FORM (JAN 2006): The state may terminate this contract, or any part hereof, for cause in the event of any default by the contractor, or if the contractor fails to comply with any contract terms and conditions, or fails to provide the state, upon request, with adequate assurances of future performance. In the event of termination for cause, the state shall not be liable to the contractor for any amount for supplies or services not accepted, and the contractor shall be liable to the state for any and all rights and remedies provided by law. If it is determined that the state improperly terminated this contract for default, such termination shall be deemed a termination for convenience.</p>	Optional. Use this clause for clauses with an expected value of \$100,000 or less. [An amount should be specified. FYI - \$100,000 is the small acquisition threshold for the federal acquisition regulations – Part 13.] For contracts above this threshold, use the standard Default clause.
7b --- 7B085	<p>DISPOSAL OF PACKAGING (JAN 2006): Contractor shall dispose of all wrappings, crating, and other disposable materials pertaining to this contract at the end of each working day and upon completion of installation.</p>	Recommended for any contract involving inside delivery, setup, or installation.
7b --- 7B090	<p>ESTIMATED QUANTITY - PURCHASES FROM OTHER SOURCES (JAN 2006): The state may bid separately any unusual requirements or large quantities of supplies covered by this contract.</p>	Include only in Indefinite Quantity Contracts, such as statewide term contracts..
7b --- 7B095	<p>ESTIMATED QUANTITY - UNKNOWN (JAN 2006): The total quantity of purchases of any individual item on the contract is not known. The State does not guarantee that the State will buy any specified item or total amount. The omission of an estimated purchase quantity does not indicate a lack of need but rather a lack of historical information.</p>	Include in all Indefinite Quantity Contracts, such as statewide term contracts.
7b --- 7B100	<p>INDEMNIFICATION - THIRD PARTY CLAIMS (JAN 2006): Notwithstanding any limitation in this agreement, Contractor shall defend and indemnify the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all suits or claims of any nature (and all damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities attributable thereto) by any</p>	Optional. This clause may be used in any procurement and should be included if contractor's personnel will be on the state's property.

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	<p>third party which arise out of, or result in any way from, any defect in the goods or services acquired hereunder or from any act or omission of Contractor, its subcontractors, their employees, workmen, servants or agents. Contractor shall be given written notice of any suit or claim. State shall allow Contractor to defend such claim so long as such defense is diligently and capably prosecuted through legal counsel. State shall allow Contractor to settle such suit or claim so long as (i) all settlement payments are made by (and any deferred settlement payments are the sole liability of) Contractor, and (ii) the settlement imposes no non-monetary obligation upon State. State shall not admit liability or agree to a settlement or other disposition of the suit or claim, in whole or in part, without the prior written consent of Contractor. State shall reasonably cooperate with Contractor's defense of such suit or claim. The obligations of this paragraph shall survive termination of the parties' agreement.</p>	
<p>7b --- 7B105</p>	<p><b>INTELLECTUAL PROPERTY INFRINGEMENT (JAN 2006)</b>          (a) Without limitation and notwithstanding any provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify the State, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, attorneys' fees (including inside counsel), costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an IP right related to an acquired item. State shall allow Contractor to defend such claim so long as the defense is diligently and capably prosecuted. State shall allow Contractor to settle such claim so long as (i) all settlement payments are made by Contractor, and (ii) the settlement imposes no non-monetary obligation upon State. State shall reasonably cooperate with Contractor's defense of such claim. (b) In the event an injunction or order shall be obtained against State's use of any acquired item, or if in Contractor's opinion, the acquired item is likely to become the subject of a claim of infringement or violation of an IP right, Contractor shall, without in any way limiting the foregoing, and at its expense, either: (1) procure for State the right to continue to use, or have used, the acquired item, or (2) replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by State. If neither (1) nor (2), above, is practical, State may require that Contractor remove the acquired item from State, refund to State any charges paid by State therefor, and take all steps necessary to have State released from any further liability. (c) Contractors obligations under this paragraph do not apply to a claim to the extent (i) that the claim is caused by Contractor's compliance with specifications furnished by the State unless Contractor knew its compliance with the State's specifications would infringe an IP right, or (ii) that the claim is caused by Contractor's compliance with specifications furnished by the State if the</p>	<p>Optional. Ordinarily, this clause need not be used for an acquisition of goods only (an acquisition covered by the UCC), as long as you do not allow the contractor to insert any limitation of damages, remedy, or warranty disclaimers. Otherwise, this clause should be widely used in all contracts.</p> <p>This clause should also be used for acquisitions of goods involving detailed design specifications, such as school bus procurements.</p>

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	State knowingly relied on a third party's IP right to develop the specifications provided to Contractor and failed to identify such product to Contractor. (d) As used in this paragraph, these terms are defined as follows: "IP right(s)" means a patent, copyright, trademark, trade secret, or any other proprietary right. "Acquired item(s)" means the rights, goods, or services furnished under this agreement. "Specification(s)" means a detailed, exact statement of particulars such as a statement prescribing materials, dimensions, and quality of work. (e) Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement.	
7b --- 7B115	LICENSES AND PERMITS (JAN 2006): During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.	Use for service contracts if you expect some licensing or permitting requirement to apply to the contractor's performance obligations.
7b --- 7B120	MATERIAL AND WORKMANSHIP (JAN 2006): Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended.	Ordinarily, this clause should be used in all procurements involving the acquisition of any equipment or other material. It does not apply to acquisitions for used supplies.
7b --- 7B125	OWNERSHIP OF DATA & MATERIALS (JAN 2006): All data, material and documentation either prepared for the state pursuant to this contract shall belong exclusively to the State.	Cross-reference the Contractor's Use of State Property clause.
7b --- 7B130	PACK SIZE - BUNDLING (JAN 2006): You may bundle units differently than called for by the bidding schedule provided your offer explains how you bundle units.	Optional. As needed.
7b --- 7B135	PACKAGING (JAN 2006): Alternate packaging will be given consideration.	Optional. As needed.
7b --- 7B140	PALLETIZING (JAN 2006): Palletized products must be furnished on hardwood pallets.	Optional. As needed.
7b --- 7B145	PARTIAL SHIPMENTS (JAN 2006): No partial shipments on any item will be accepted.	Optional. As needed.
7b --- 7B150	PERFORMANCE BOND REQUIRED – ITMO (JAN 2006): As a condition of the execution of the contract, the contractor shall supply a performance bond; certificate of deposit; cash; an unconditional, irrevocable, standby letters of credit; or marketable securities, or provide other financial arrangements whereby funds are pledged to the benefit of the State, are not under the control of the contractor, are payable to the State upon written demand to the holder of the security, and are subject to the direction of the State if any of the circumstances set forth in sub-sections below occur. This security will protect, indemnify, and save harmless the State from all costs and damages by reason of the contractor's default, breach, or failure to satisfactorily	Consult with management and/or legal counsel.

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	<p>complete any of the following terms:</p> <p>Payment to all entities, individuals, and the like furnishing of labor or materials in connection with this contract; and/or</p> <p>The successful execution of the final implementation plan, including satisfactorily meeting the performance or test requirements on the dates specified in the final implementation plan and the acceptance requirements and/or</p> <p>Full and satisfactory performance of the ongoing obligations contained in this RFP, any amendments and any subsequent contract between the State and the contractor.</p> <p>In the event of any condition of breach or other circumstance, such as those set forth above, attributable to the contractor, the State shall have the right to draw against the security such sums as are necessary to make the State whole, to secure and compensate the State for substituted services or other forms of relief made necessary by the breach. Nothing herein shall be construed to mean that the security provided for herein is exclusive or constitutes any limitation or restriction on any remedies to which the State may be entitled.</p> <p>The security shall be for the benefit of the State, payable only to the State at its discretion pursuant to the terms of this section, shall be in the face amount of the contract and shall be non-exclusive and in addition to all other remedies available to the State under this RFP or the contract, or by law.</p> <p>The contractor shall establish the security not later than ten (10) days after execution of the contract, and failure to satisfy this requirement will void the contract.</p> <p>Any interest or other income resulting from the security shall become and remain the property and possession of the contractor and shall be payable to the contractor.</p> <p>The contractor may request a reduction in the security on an annual basis, no earlier than twelve (12) months after the first anniversary date of acceptance of the service, and the State's consideration of such request shall take into account performance, and likelihood of the need for future protection provided by the security to the State.</p>	
7b --- 7B155	<p>PERFORMANCE BOND REQUIRED (JAN 2006): Within ten (10) days after award, contractor shall provide a performance bond in the full amount of the contract sum, issued by a surety company licensed in South Carolina, with an "A" minimum rating of performance as stated in the most current publication of "best's key rating guide, property liability" which shall show a financial strength rating of at least five (5) times the contract amount. Each bond must be accompanied by a "power of attorney" authorizing the attorney in fact to bind the surety and certified to include the date of the performance bond.</p>	Consult with management and/or legal counsel.
7b --- 7B160	<p>PRICE ADJUSTMENTS (JAN 2006): (1) Method of Adjustment. Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise</p>	<p>Mandatory for any solicitation if either (a) the solicitation includes a changes clause, or (b) the potential value exceeds \$100,000.</p> <p>Any adjustment to the price after</p>

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	<p>allowed):</p> <p>(a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;</p> <p>(b) by unit prices specified in the Contract or subsequently agreed upon;</p> <p>(c) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;</p> <p>(d) in such other manner as the parties may mutually agree; or,</p> <p>(e) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.</p> <p>(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830.</p>	<p>final award must be made in accordance with the terms of this clause.</p>
<p>7b --- 7B165</p>	<p>PRICE ADJUSTMENT - LIMITED - AFTER INITIAL TERM ONLY (JAN 2006): Upon approval of the Procurement Officer, prices may be adjusted for any renewal term. Prices shall not be increased during the initial term. Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the expiration of the applicable term and must be accompanied by sufficient documentation to justify the increase. If approved, a price increase becomes effective starting with the term beginning after approval. A price increase must be executed as a change order. Contractor may terminate this contract at the end of the then current term if a price increase request is denied. Notice of termination pursuant to this paragraph must be received by the Procurement Officer no later than fifteen (15) days after the Procurement Officer sends contractor notice rejecting the requested price increase.</p>	<p>Use of this clause must be accompanied by another clause which specifies how price increase will be evaluated, e.g., against some commercially published index, like PPI or CPI, or pursuant to data submitted by the contractor.</p> <p>This clause does not apply, and should not be used, when the price fluctuates because price was bid as either a percentage discount off a published catalog price or a function of some price, cost, or industry index.</p>
<p>7b --- 7B170</p>	<p>PRICE ADJUSTMENTS – LIMITED BY CPI “All Items” (JAN 2006): Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), “all items” for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at <a href="http://www.bls.gov">www.bls.gov</a>.</p>	<p>In multi-term contracts, vendors often seek price increases due to increase costs. If such requests are justified, this clause provides guidance on how much the price may be adjusted. Cross reference the Price Adjustments clause.</p>
<p>7b --- 7B175</p>	<p>PRICE ADJUSTMENTS – LIMITED BY CPI “Other Goods &amp; Services” (JAN 2006): Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is</p>	<p>In multi-term contracts, vendors often seek price increases due to increase costs. If such requests are justified, this clause provides guidance on how much the price</p>

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	available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), "Other Goods & Services" for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at <a href="http://www.bls.gov">www.bls.gov</a> .	may be adjusted. Cross reference the Price Adjustments clause.
7b --- 7B180	PRICE ADJUSTMENTS – LIMITED BY PPI (JAN 2006): Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Producer Price Indexes (PPI) for the applicable commodity, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at <a href="http://www.bls.gov">www.bls.gov</a> .	In multi-term contracts, vendors often seek price increases due to increase costs. If such requests are justified, this clause provides guidance on how much the price may be adjusted. Cross reference the Price Adjustments clause.
7b --- 7B185	<p>PRICING DATA – AUDIT – INSPECTION (JAN 2006) [Clause Included Pursuant to § 11-35-1830, - 2210, &amp; -2220]</p> <p>(a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. § 2.101 (2004), prior to either (1) any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the state finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the chief Procurement Officer. The state may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2). (c) Inspection. At reasonable times, the state may inspect any part of your place of business which is related to performance of the work. (d) Instructions – Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. § 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR § 15.406-2(a) (adapted as necessary for the state context). (e) Subcontracts. You shall include the above text of this clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state.</p>	<p>1. Mandatory for contracts with a total potential value in excess of \$100,000.</p> <p>2. Why to Request Cost or Pricing Data: Procurement officers have a basic responsibility for evaluating the reasonableness of an offer's price. For most procurements, this evaluation is facilitated by adequate price competition. However, in sole source procurements, many RFPs, and all change orders, little or no true price competition exists. Regardless of the reason, cost or pricing data provides the information needed to perform that evaluation. In addition, such data can be <u>exceedingly</u> valuable when developing a negotiation position (say, when negotiating on an RFP, sole source, or change order). Essentially, this data allows you to determine the offeror's / contractor's actual cost and profit margin prior to completing negotiations over what to pay. Private firms would welcome the opportunity to get such data. Take advantage of it!</p> <p>3. When to Request Cost or Pricing Data: You should request cost or pricing data when, and only when, Section 11-35-1830 requires its submission. As reflected in this clause, we do not ask for such information pursuant to this clause if either (a) the total contract price does not exceed \$500,000, [\$1,000,000 / \$2,000,000] or (b) the</p>



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		<p>value of a contract change does not exceed \$100,000. Generally, request this information prior to awarding on an RFP, sole source, change order, or contract modification.</p> <p>4. CFR References. Portions of the CFR may be accessed at: <a href="http://www.gpoaccess.gov/cfr/index.html">www.gpoaccess.gov/cfr/index.html</a></p> <p>5. Table 15-2, Instructions for Submitting Cost-Price Data (from 48 C.F.R. § 15.408 (2004) , is reprinted in an appendix to this compendium.</p> <p>6. 48 C.F.R. §2.101: Cost or pricing data (10 U.S.C. 2306a(h)(1) and 41 U.S.C. 254b) means all facts that, as of the date of price agreement or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price, prudent buyers and sellers would reasonably expect to affect price negotiations significantly.</p> <p>Cost or pricing data are data requiring certification in accordance with 48 CFR 15.406–2. Cost or pricing data are factual, not judgmental; and are verifiable. While they do not indicate the accuracy of the prospective contractor's judgment about estimated future costs or projections, they do include the data forming the basis for that judgment. Cost or pricing data are more than historical accounting data; they are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred. They also include such factors as—</p> <ul style="list-style-type: none"><li>(1) Vendor quotations;</li><li>(2) Nonrecurring costs;</li><li>(3) Information on changes in production methods and in production or purchasing volume;</li><li>(4) Data supporting projections of business prospects and objectives and related operations costs;</li></ul>
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		<p>(5) Unit-cost trends such as those associated with labor efficiency;</p> <p>(6) Make-or-buy decisions;</p> <p>(7) Estimated resources to attain business goals; and</p> <p>(8) Information on management decisions that could have a significant bearing on costs.</p> <p>7. Certificate Modified for State Context:</p> <p>CERTIFICATE OF CURRENT COST OR PRICING DATA</p> <p>This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined by 48 C.F.R. 2.101) submitted, either actually or by specific identification in writing, to the Procurement Officer in support of _____* are accurate, complete, and current as of _____**.</p> <p>Firm _____</p> <p>Signature _____</p> <p>Name _____</p> <p>Title _____</p> <p>Date *** _____</p> <p>* Insert information to identify the solicitation and/or change order.</p> <p>**Insert the day, month, and year when price negotiations were concluded and price agreement was reached or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price.</p> <p>*** Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.</p> <p>(END OF CERTIFICATE)</p>
7b --- 7B190	PRINTING MANUAL (JAN 2006): The South Carolina Government Printing Services manual, dated January 1, 1998, governs both the procurement and any resulting contract and is hereby incorporated by reference. You are responsible for obtaining a copy of the manual. This manual is available at <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a> .	Include this clause in all procurements for printing services.
7b --- 7B195	PRIVACY – WEB SERVICES (JAN 2006): You agree that any information acquired by you about individuals or businesses that is available to you as a result of your performance of this contract shall not be retained beyond the	Use only when the contract may involve the contractor providing services for the state (to the state or the public) through the internet.

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	end of the term of the contract without the express written consent of the government. Such information shall never be sold, traded, or released to another entity, including affiliates, and shall not be used for any purpose other than performing this contract. Upon request, contractor shall provide written confirmation of compliance with this clause.	So much personal information can be captured by vendors we hire to provide web-based services, that it seems appropriate to contractually provide privacy for those visiting government web sites – the public and employees alike.
7b --- 7B200	PURCHASING CARD (JAN 2006): Contractor agrees to accept payment by the South Carolina Purchasing Card for no extra charge. The Purchasing Card is issued by Visa. The purchasing card allows state agencies to make authorized purchases from a vendor without the requirement to issue a purchase order.	Use only in procurements for supplies unless approved by your supervisor.
7b --- 7B205	RELATIONSHIP OF THE PARTIES (JAN 2006): Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.	Recommended for most services contracts.  Occasionally, the state retains a contractor that acts in a manner that suggest that the state has authorized the vendor to act on its behalf, when in fact, the vendor is acting on its own behalf. For example, an advertising firm might acquire film production services to develop a TV ad for the state. The film production company might mistakenly believe that the vendor is acquiring its services for the state rather than for the vendor. This clause makes clear that the vendor does not have authority to act as an agent, or enter into a contract for the state.
7b --- 7B210	RELATIONSHIP OF USING GOVERNMENTAL UNITS (JAN 2006): Each Using Governmental Unit's obligations and liabilities are independent of every other Using Governmental Unit's obligations and liabilities. No Using Governmental Unit shall be responsible for any other Using Governmental Unit's act or failure to act.	Include in all statewide and multi-agency contracts!
7b --- 7B215	SOFTWARE LICENSES (JAN 2006): Proprietary Software: Proprietary software is non-custom written, non-made for hire computer software supplied by the contractor and documentation used to describe, maintain and use the software. License: The State is hereby granted a non-exclusive, fully paid perpetual license to use the proprietary software acquired hereunder. Title: Title to any proprietary software provided by the Contractor to the State will remain with the Contractor. Trade Secrets: The State agrees that the proprietary software is a trade secret of the contractor. The State agrees to take reasonable precautions to protect the trade secret nature of the proprietary software and to prevent its disclosure to unauthorized personnel. The license herein granted cannot be transferred, assigned, or made available by the State for use by any other individual, firm, partnership,	For use only by ITMO!

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	<p>or legal entity not affiliated, associated, or connected with the State without the prior expressed written consent of the contractor, which consent will not be unreasonably withheld. Such transfer shall also be conditioned upon the execution by the transferee of a written declaration agreeing to be bound by the terms and conditions of confidentiality provided for in this section.</p> <p>Source Code: Source code includes files used by assembly, basic, c or other language compatibles to produce object modules for linkage into applications programs. The source code media will contain source code, files for compiling and linking software, and any other files and documentation available in machine-readable form to facilitate compiling and linking the code.</p> <p>In the event the contractor, at any point during the continued installation and operation of the products acquired under this contract, discontinues the conduct of business, or for any reason fails to continue to support its proprietary software, it will either make provision for the continued support under the same terms and conditions or provide the State with a copy of the source code for said proprietary software, at no expense to the State.</p> <p>Export Control: The State acknowledges that the products acquired hereunder may be licensable by the U. S. Government. It further acknowledges that a valid export license must be obtained from the Department of Commerce prior to export of said products.</p> <p>Customized Software: Customized software is made-for-hire, custom written and customer specific software or customizations to proprietary software developed for the State by contractor and documentation used to describe, maintain and use the software.</p> <p>Title: Title to the customized software vests in the State as set forth herein. Contractor shall thereafter have no right, title or interest in any customized software. As herein used, title includes providing to the State all intellectual elements of the customized software including, but not limited to, developmental work product, notes, object and source codes, documentation, and any other items which would aid the State in understanding, using, maintaining, and enhancing said customized software.</p> <p>Software Tools: The contractor shall provide to the STATE, simultaneous with its initial installation, and any subsequent enhancements, upgrades, fixes, etc., software tools (including, but not limited to compilers, editors, etc.) that the STATE would require to maintain or enhance the customized software. The price for said tools and the cost to train State personnel to maintain and/or to enhance the customized software shall be noted separately and included in the contractor'S cost proposal submitted to the State in response to the State's solicitation.</p> <p>Escrow for Source Code: In the event the contractor at any point during the continued installation and operation of the software herein acquired discontinues the conduct of business or for any other reason fails to continue to support the software, the state shall be provided a copy of the source</p>	
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	<p>code for said software within thirty days at no expense to the State.</p> <p>For the effective term of this contract, contractor will provide, to a mutually agreed upon escrow agent in the United States, the most recent version of the source code on magnetic media.</p> <p>Proprietary source code shall be deposited into the escrow account within fifteen (15) days of the initiation of the contract, or any major update, non-customized enhancement, version or release of said licensed software.</p> <p>The source code may be accessed only upon the following conditions:</p> <p>a. Contractor refuses to provide software maintenance, bug fixes, upgrades, updates and/or enhancement services under the terms set forth in this contract or as generally provided similarly situated customers; or</p> <p>b. Contractor ceases to do business or exist as a valid business entity, as evidenced by an adjudication of bankruptcy or other definitive measure of cessation of operations.</p> <p>With regards to proprietary software, the state may not sell, assign lease, or otherwise provide said source code(s) to any other person or entity, regardless of modification, without the express written consent of contractor, its successors, and assigns.</p>	
<p>7b --- 7B220</p>	<p>SHIPPING / RISK OF LOSS (JAN 2006): F.O.B. Destination. Destination is the shipping dock of the Using Governmental Units' designated receiving site, or other location, as specified herein. (See Delivery clause)</p>	<p>This clause should be used in contracts for the acquisition of goods. This clause makes the Contractor solely responsible for all transportation costs involved in getting the items acquired to the destination point. This clause also makes the Contractor responsible for any loss or damage to the item acquired prior to the time the item is properly delivered to the destination point. In a transaction for the sale of goods (i.e., a transaction covered by the Uniform Commercial Code), the title to any item acquired vests in the State once the seller properly delivers conforming goods. Once title vests, the State has an insurable interest. If the solicitation does not address shipping costs (i.e., no "Shipping / Risk of Loss" clause is included), risk of loss may be addressed in a separate clause: "Unless the loss or damage is caused by Contractor, State accepts the risk of loss upon taking physical possession."</p>
<p>7b --- 7B225</p>	<p>STATEWIDE TERM CONTRACT (JAN 2006): With this solicitation, the state seeks to establish a term contract (as defined in § 11-35-310(35)) available for use by all South</p>	<p>Include this base clause in all statewide term contracts.</p>

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	<p>Carolina public procurement units (as defined in § 11-35-4610(5)). Use by state governmental bodies (as defined in § 11-35-310(18)), which includes most state agencies, is mandatory except under limited circumstances, as provided in Section 11-35-310(35). See clause entitled “Acceptance of Offers 10% Below Price” in Part VII.B. of this solicitation. Use by local public procurement units is optional. Section 11-35-4610 defines local public procurement units to include any political subdivision, or unit thereof, which expends public funds. Section 11-35-310(23) defines the term political subdivision as all counties, municipalities, school districts, public service or special purpose districts. The State shall be entitled to audit the books and records of you and any subcontractor to the extent that such books and records relate to the performance of the work. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the chief Procurement Officer.</p>	<p>Whenever this clause is used, you must also use the clause entitled “Acceptance of Offers 10% Below Price”.</p>
<p>7b --- 7B230</p>	<p>STATEWIDE TERM CONTRACT – SCOPE (JAN 2006): The scope of this contract is limited by the Bidding Schedule / Cost Proposals and by the description included in Part I, Scope of Solicitation. Sales of supplies or services not within the scope of this contract are prohibited. See clause entitled Contract Limitations.</p>	<p>See guidance on Part 1.</p>
<p>7b --- 7B235</p>	<p>STORAGE OF MATERIALS (JAN 2006): Absent approval of the using governmental unit, Contractor shall not store items on the premises of the using governmental unit prior to the time set for installation.</p>	<p>Optional. Use as appropriate.</p>
<p>7b --- 7B240</p>	<p>TERM OF CONTRACT – EFFECTIVE DATE / INITIAL CONTRACT PERIOD (JAN 2006): The effective date of this contract is the first day of the Maximum Contract Period as specified on the <u>final</u> statement of award. The initial term of this agreement is one year from the effective date. Regardless, this contract expires no later than the last date stated on the final statement of award.</p>	<p>By default, the clause sets the initial term at one year. You should modify this number as appropriate.</p> <p>Vending Facilities: Procurement Officers are reminded that the Commission for the Blind has an option to operate any vending facility operated on state land (certain exclusions apply). At least 90 days prior to the expiration of the initial contract term, consult with your management regarding agency compliance with Title 43, Chapter 26. See particularly Section 43-26-60(c) &amp; (e).</p>
<p>7b --- 7B245</p>	<p>TERM OF CONTRACT – OPTION TO RENEW (JAN 2006): At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of one year, unless contractor receives notice that the state elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award.</p>	<p>Optional. Use as appropriate.</p>
<p>7b</p>	<p>TERM OF CONTRACT – TERMINATION BY</p>	<p>Optional. Use as appropriate. For</p>

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--- 7B250	CONTRACTOR (JAN 2006): Contractor may terminate this contract at the end of the initial term, or any renewal term, by providing the Procurement Officer notice of its election to terminate under this clause at least ninety (90) days prior to the expiration of the then current term.	larger, or more complex contracts, use a longer time period than 90 days.
7b --- 7B255	TERMINATION FOR CONVENIENCE – INDEFINITE DELIVERY / INDEFINITE QUANTITY CONTRACTS (JAN 2006): Unless the termination so provides, a termination for convenience shall not operate to terminate any purchase orders issued prior to the effective date of termination.	Include this clause in all Indefinite Quantity Contracts (including multi-agency and statewide term). Do not use this clause without also using one of the other two termination-for-convenience clauses.
7b --- 2B260	TERMINATION FOR CONVENIENCE – SHORT FORM (JAN 2006): The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. In such a termination, the Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. Upon such termination, the contractor shall (a) stop work to the extent specified, (b) terminate any subcontracts as they relate to the terminated work, and (c) be paid the following amounts without duplication, subject to the other terms of this contract: (i) contract prices for supplies or services accepted under the contract, (ii) costs incurred in performing the terminated portion of the work, and (iii) any other reasonable costs that the contractor can demonstrate to the satisfaction of the State, using its standard record keeping system, have resulted from the termination. The contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided. As a condition of payment, contractor shall submit within three months of the effective date of the termination a claim specifying the amounts due because of the termination. The absence of an appropriate termination for convenience clause in any subcontract shall not increase the obligation of the state beyond what it would have been had the subcontract contained such a clause.	Optional. Ordinarily, this clause should be used for contracts with an expected value of \$100,000 or less. See general guidance under Termination for Convenience (August 2005).
7b --- 7B265	TERMINATION FOR CONVENIENCE (JAN 2006): (1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective. (2) Contractor's Obligations. The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the	Use the provision entitled Termination for Convenience – Short Form (August 2005) for contracts with an expected value of \$100,000 or less. Use this clause for contracts in excess of that value.  Comments: (1) The contractual right to terminate for convenience may not be exercised in bad faith. S.C. Code Ann. § 11-35-30 (requiring good faith in the

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<p>liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the State. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.</p> <p>(3) Right to Supplies. The Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in a accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.</p> <p>(4) Compensation. (a) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.</p> <p>(b) The Procurement Officer and the contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;</p> <p>(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:</p> <p>(i) contract prices for supplies or services accepted under the contract;</p> <p>(ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;</p> <p>(iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this</p>	<p>performance of all contractual obligations). (2) Section 11-35-4310 states "(b) the contract may be terminated and the payment of such damages, if any, as may be provided in the contract, may be awarded." If a contract is terminated by the CPO or Panel, the termination should be effectuated by exercising any termination right granted by contract.</p>
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# D R A F T

	<p>paragraph;</p> <p>(iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.</p> <p>(d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.</p> <p>(5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause.</p>	
<p>7b --- 7B270</p>	<p><b>WAIVER OF CLAIMS FOR CONSEQUENTIAL DAMAGES (JAN 2006):</b> (1) The contractor and state waive any and all claims, known or unknown, against each other for consequential damages arising out of or relating to this contract. This mutual waiver includes:</p> <p>(a) damages incurred by the state for loss of income, profit, financing, business and reputation, management or employee productivity or of the services of such persons; and</p> <p>(b) damages incurred by the contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the work.</p> <p>(2) This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination pursuant to a termination provision of this contract. Nothing contained in this paragraph shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the terms of this contract. This paragraph does not apply to any claim for equitable or contractual indemnification.</p>	<p><b>Caution. Use this clause only after conferring with upper management. This clause is appropriate only for services contracts.</b></p>
<p>7b --- 7B275</p>	<p><b>WARRANTY – ONE YEAR (JAN 2006):</b> Contractor warrants all items acquired shall conform to all contractor's representations, the requirements of this contract, and all published documentation.</p>	<p>Optional. Use as appropriate.</p>
<p>7b --- 7B280</p>	<p><b>WARRANTY – STANDARD (JAN 2006):</b> Contractor must provide the manufacturer's standard written warranty upon delivery of product. Contractor warrants that manufacturer will honor the standard written warranty provided.</p>	<p>Optional. Use as appropriate.</p>
<p>7b --- 7B285</p>	<p><b>YEAR 2000 WARRANTY (JAN 2006):</b> Contractor represents and warrants that the equipment is designed to be used prior to, during, and after the calendar year 2000 A.D., and that the equipment will operate during each such time period without error relating to date data, specifically including any error relating to, or the product of, date data which</p>	<p>Optional. Use as appropriate.</p>

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	represents or references different centuries or more than one century.	
	<b>Part 8</b>	
8 --- 8001	VIII. Bidding Schedule / Price-Business Proposal	Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation Format. See guidance on the Uniform Solicitation Format at the beginning of this document.
8 --- 8005	Section Not Applicable – Intentionally Omitted	This should only be used if no price or cost information is sought.
8 --- 8010	BUSINESS PROPOSAL (JAN 2006): Offerors are to submit a Business Proposal as a separate document from the Technical Proposal. The Business Proposal may include the following considerations: (a) Total Cost of Ownership – What is the anticipated cost of purchasing, owning, leasing, operating, maintaining, and/or supporting the proposed solution for the total potential term of the contract? Provide a detailed accounting. (b) Risk Analysis – What internal or external factors could significantly impact the probability of completing this project on time and within budget? (c) Risk Mitigation – What actions can be taken to mitigate the identified risks? (d) Risk Sharing – Are there opportunities for mutually beneficial risk sharing? (d) Performance Incentives – Are there opportunities for performance-based incentives? (e) Financing Options - Are there alternative financing options available to the State?	Use as appropriate in RFPs.
8 --- 8015	PRICE PROPOSAL (JAN 2006): Notwithstanding any other instructions herein, you shall submit the following price information as a separate document:	The clause entitled Contents of Offer (RFP) – SPO states that "Each copy of your offer should be bound in a single volume where practical. All documentation submitted with your offer should be bound in that single volume." Use this clause if you need the cost / price proposal to be separate. Use as appropriate in RFPs.
9	<b>Part 9</b>	
9 --- 9001	IX. Attachments To Solicitation	Mandatory. Include this header at the beginning of the appropriate part of the Uniform Solicitation Format. See guidance on the Uniform Solicitation Format at the beginning of this document.  Current Attachments appear in the Appendix of this Compendium.
10 ---	<b>Part 10</b>	
10	AWARD - CANCELLED - DETERMINATION: THE ABOVE	If a procurement activity is


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--- A005	NOTIFICATION OF CONTRACT AWARD IS CANCELLED. CPO'S WRITTEN DETERMINATION INCLUDED.	terminated after posting of the intent to award, but prior to final award, the termination should be effectuated by re-posting your award statement, annotated with this clause to reflect its cancellation. Include the CPO's written determination under R. 19-445.2085(C).  If the procurement activity is terminated after the award has gone final, the award need not be cancelled. The matter is one of contract administration.
10 --- A010	AWARD - CANCELLED – PROTEST DECISION: THE ABOVE NOTIFICATION OF CONTRACT AWARD IS CANCELLED.	Use for awards terminated pursuant to a decision issued by a CPO or Panel to cancel.
10 --- A015	AWARD - ONE RESPONSE RECEIVED: IN ACCORDANCE WITH SC PROCUREMENT CODE 11-35-1520 (10) AWARD, "WHEN ONLY ONE RESPONSE IS RECEIVED, THE NOTICE OF INTENDED AWARD AND THE SIXTEEN DAY DELAY OF AWARD MAY BE WAIVED."	Use when only one response received.
10 --- A020	AWARD - PARTIAL ONLY - NO AWARD IS MADE ON ITEM(S) _____. AWARD TO BE MADE AT A LATER DATE	Use if not awarding all items at one time.
10 --- A025	AWARD - REINSTATED: THE ABOVE NOTIFICATION OF CONTRACT AWARD IS REINSTATED.	Use to reinstate a previously suspended award, e.g., a protest is denied and unappealed.
10 --- A030	AWARD – RVP: RESIDENT VENDOR PREFERENCE (AS DEFINED IN SECTION 11-35-1524) HAS BEEN APPLIED IN THIS AWARD.	Add to indicate the award was determined by the preference.
10 --- A035	AWARD - SC/US MADE: SOUTH CAROLINA / UNITED STATES MADE, MANUFACTURED OR GROWN PREFERENCE (AS DEFINED IN SECTION 11-35-1524) HAS BEEN APPLIED IN THIS AWARD	Add to indicate the award was determined by the preference.
10 --- A040	AWARD - SUSPENDED - PROTEST: THE ABOVE NOTIFICATION OF AWARD IS HEREBY SUSPENDED PENDING THE ADMINISTRATIVE REVIEW IN RESPONSE TO A PROTEST.	Use this when the award process is suspended under 11-35-4210(7).
10 --- A050	CERTIFICATES OF INSURANCE: CERTIFICATES OF INSURANCE COVERAGE TO BE FURNISHED PRIOR TO COMMENCEMENT OF SERVICES UNDER CONTRACT.	This clause is nothing more than a reminder to the contractor to provide the certificate prior to performance.
10 --- A055	Maximum Contract Period: [Insert here the maximum number of years, one, two, three, four, etc., from date of award, or if circumstances require, you may insert actual dates.]	See the clause entitled "Term of Contract – Effective Date / Initial Contract Period" and the Guidance on awards and intent to awards.
10 --- A060	NO AWARD – ALL OFFERS NON-RESPONSIVE: NO OFFERS RECEIVED MET SOLICITATION REQUIREMENTS.	Use if all offers are non-responsive.
10 --- A065	NO AWARD – FUNDS EXPIRED. NO AWARD IS MADE ON ITEM(S) _____. FUNDS HAVE EXPIRED.	Use if funds expired.
10	NO AWARD – ITEMS UN-NEEDED: NO AWARD IS MADE	After opening, requires written

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--- A070	ON ITEM(S) _____. NO LONGER REQUIRED.	determination under R. 19-445.2065(b).
10 --- A075	NO AWARD – NO BIDS RECEIVED: NO AWARD IS MADE ON ITEM(S) _____. NO BIDS RECEIVED.	Use if no bids received.
10 --- A080	NO AWARD – PRICE EXCESSIVE: NO AWARD-NO AWARD IS MADE ON ITEM(S) _____. PRICE IS CONSIDERED EXCESSIVE.	Requires written determination of price unreasonableness under either R. 19-445.2065(b)(6) or 19-445.2070(d).
10 --- A085	NO AWARD – RESOLICIT SELECTED ITEMS - NO AWARD IS MADE ON ITEM(S) _____. WILL BE RE-SOLICITED WITH REVISED SPECIFICATIONS	Requires written determination under R. 19-445.2065(b).
10 --- A090	NON-RESPONSIVE LOW OFFER(S): OFFERS FOR ITEMS AT PRICES LOWER THAN THAT OF AWARD ARE NON-RESPONSIVE AS THEY DID NOT MEET THE SOLICITATION REQUIREMENTS.	Optional Note: This note may be used to inform one or more unsuccessful low Offerors that they were non-responsive or non-responsible. Use is optional.
11	<b>Part 11</b>	
11	Part 11 – Appendices to Compendium A. COVER PAGE MMO B. COVER PAGE CIO C. COVER PAGE CIO – ONLINE D. Page Two E. Change Order Form F. Record of Negotiations G. Instructions for Submitting Cost-Price Data (Table 15-2) H. Instructions for Non-Resident Taxpayer Registration & I-312 Non-Resident Taxpayer Affidavit I. Offeror's Checklist J. Standard Equipment Agreement K. Sample Low Bid Formulas L. Standard Solicitation Groups – Decision Tree M. Award Statement N. Notice of Intent to Award O. Record of Discussions P. APS Table of Clauses Appearing In Compendium	

# APPENDIX - A

	<b>State of South Carolina</b>	Solicitation Number	
		Date Printed	
		Date Issued	
		Procurement Officer	
		Phone	
E-Mail Address			

DESCRIPTION:

USING GOVERNMENTAL UNIT:

*The Term "Offer" Means Your "Bid" or "Proposal".*

SUBMIT OFFER BY (Opening Date/Time):

See "Deadline For Submission Of Offer" provision

QUESTIONS MUST BE RECEIVED BY:

See "Questions From Offerors" provision

NUMBER OF COPIES TO BE SUBMITTED:

**Offers must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior.**

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

MAILING ADDRESS:

Materials Management Office  
P.O. Box 101103  
Columbia, S.C. 29211

PHYSICAL ADDRESS:

1201 Main St. - Suite 600  
Capitol Center – South Trust Bldg.  
Columbia, S.C. 29201

See "Submitting Your Offer" provision

CONFERENCE TYPE: DATE & TIME:  As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions	LOCATION:
--	-----------

AWARD & AMENDMENTS	Award will be posted at the Physical Address stated above on <b>00/00/00</b> . The award, this solicitation, and any amendments will be posted at the following web address: <a href="http://www.procurement.sc.gov">http://www.procurement.sc.gov</a>
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You must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date.

NAME OF OFFEROR (Full legal name of business submitting the offer)	<b>OFFEROR'S TYPE OF ENTITY:</b> (Check one)  <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporate entity (not tax-exempt) <input type="checkbox"/> Tax-exempt corporate entity <input type="checkbox"/> Government entity (federal, state, or local) <input type="checkbox"/> Other _____ (See "Signing Your Offer" provision.)
AUTHORIZED SIGNATURE  (Person signing must be authorized to submit binding offer to enter contract on behalf of Offeror named above.)	
TITLE (Business title of person signing above)	
PRINTED NAME (Printed name of person signing above)	
DATE SIGNED	

Instructions regarding Offeror's name: Any award issued will be issued to, and the contract will be formed with, the entity identified as the offeror above. An offer may be submitted by only one legal entity. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, *i.e.*, a separate corporation, partnership, sole proprietorship, etc.

STATE OF INCORPORATION (If offeror is a corporation, identify the state of Incorporation.)	TAXPAYER IDENTIFICATION NO.  (See "Taxpayer Identification Number" provision)	STATE VENDOR NO.  (Register to Obtain S.C. Vendor No. at <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a> )
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## APPENDIX - B

	<h1 style="margin: 0;">State of South Carolina</h1>	Solicitation Number Date Printed Date Issued Procurement Officer Phone E-Mail Address	
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DESCRIPTION:

USING GOVERNMENTAL UNIT:

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*The Term "Offer" Means Your "Bid" or "Proposal".*

---

SUBMIT OFFER BY (Opening Date/Time):

See "Deadline For Submission Of Offer" provision

QUESTIONS MUST BE RECEIVED BY:

See "Questions From Offerors" provision

NUMBER OF COPIES TO BE SUBMITTED:

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**Offers must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior.**

---

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

MAILING ADDRESS:

Materials Management Office  
 P.O. Box 101103  
 Columbia, S.C. 29211

PHYSICAL ADDRESS:

1201 Main St. - Suite 600  
 Capitol Center – South Trust Bldg.  
 Columbia, S.C. 29201

See "Submitting Your Offer" provision

CONFERENCE TYPE: DATE & TIME:	LOCATION:
As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions	

AWARD & AMENDMENTS	Award will be posted on <b>00/00/00</b> . The award, this solicitation, and any amendments will be posted at the following web address: <a href="http://www.procurement.sc.gov">http://www.procurement.sc.gov</a>
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You must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date.

NAME OF OFFEROR <small>(Full legal name of business submitting the offer)</small>	<b>OFFEROR'S TYPE OF ENTITY:</b> <small>(Check one)</small>  <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporate entity (not tax-exempt) <input type="checkbox"/> Tax-exempt corporate entity <input type="checkbox"/> Government entity (federal, state, or local) <input type="checkbox"/> Other _____ <small>(See "Signing Your Offer" provision.)</small>
AUTHORIZED SIGNATURE <small>(Person signing must be authorized to submit binding offer to enter contract on behalf of Offeror named above.)</small>	
TITLE <small>(Business title of person signing above)</small>	
PRINTED NAME <small>(Printed name of person signing above)</small>	
DATE SIGNED	

Instructions regarding Offeror's name: Any award issued will be issued to, and the contract will be formed with, the entity identified as the offeror above. An offer may be submitted by only one legal entity. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, *i.e.*, a separate corporation, partnership, sole proprietorship, etc.

STATE OF INCORPORATION <small>(If offeror is a corporation, identify the state of Incorporation.)</small>	
TAXPAYER IDENTIFICATION NO. <small>(See "Taxpayer Identification Number" provision)</small>	STATE VENDOR NO. <small>(Register to Obtain S.C. Vendor No. at <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a>)</small>

# APPENDIX - C

	<b>State of South Carolina</b>	Solicitation Number	
		Date Printed	
		Date Issued	
		Procurement Officer	
		Phone	
		E-Mail Address	

DESCRIPTION:

USING GOVERNMENTAL UNIT:

*The Term "Offer" Means Your "Bid" or "Proposal".*

SUBMIT OFFER BY (Opening Date/Time):

See "Deadline For Submission Of Offer" provision

QUESTIONS MUST BE RECEIVED BY:

See "Questions From Offerors" provision

NUMBER OF COPIES TO BE SUBMITTED:

**Offers must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior.**

SUBMIT YOUR OFFER ON-LINE AT THE FOLLOWING URL:

[HTTP://WWW.MYSCGOV.COM/MMOSOLICITATION.HTM?SOLICITNUMBER=000006401](http://www.mysc.gov/MMOSolicitation.htm?SolicitationNumber=000006401)

See "Submitting Your Offer" provision

CONFERENCE TYPE: DATE & TIME:  As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions	LOCATION:
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AWARD & AMENDMENTS	Award will be posted on <b>00/00/00</b> . The award, this solicitation, and any amendments will be posted at the following web address: <a href="http://www.procurement.sc.gov">http://www.procurement.sc.gov</a>
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You must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date.

NAME OF OFFEROR <small>(Full legal name of business submitting the offer)</small>	<b>OFFEROR'S TYPE OF ENTITY:</b> <small>(Check one)</small>  <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporate entity (not tax-exempt) <input type="checkbox"/> Tax-exempt corporate entity <input type="checkbox"/> Government entity (federal, state, or local) <input type="checkbox"/> Other _____ <small>(See "Signing Your Offer" provision.)</small>
AUTHORIZED SIGNATURE <small>(Person signing must be authorized to submit binding offer to enter contract on behalf of Offeror named above.)</small>	
TITLE <small>(Business title of person signing above)</small>	
PRINTED NAME <small>(Printed name of person signing above)</small>	
DATE SIGNED	

Instructions regarding Offeror's name: Any award issued will be issued to, and the contract will be formed with, the entity identified as the offeror above. An offer may be submitted by only one legal entity. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, *i.e.*, a separate corporation, partnership, sole proprietorship, etc.

STATE OF INCORPORATION <small>(If offeror is a corporation, identify the state of Incorporation.)</small>	TAXPAYER IDENTIFICATION NO. <small>(See "Taxpayer Identification Number" provision)</small>	STATE VENDOR NO. <small>(Register to Obtain S.C. Vendor No. at <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a>)</small>
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# APPENDIX - D

## PAGE TWO

(Return Page Two with Your Offer)

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause)			
	Area Code	Number	Extension	Facsimile
	E-mail Address			

PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause)	ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders" and "Contract Documents" clauses)
Payment Address same as Home Office Address Payment Address same as Notice Address (check only one)	Order Address same as Home Office Address Order Address same as Notice Address (check only one)

ACKNOWLEDGMENT OF AMENDMENTS  Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue.  See "Amendments to Solicitation" Provision	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date


DISCOUNT FOR PROMPT PAYMENT See "Discount for Prompt Payment" clause	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	____Calendar Days (%)
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PREFERENCES – SC RESIDENT VENDOR PREFERENCE (June 2005): Section 11-35-1524 provides a preference for offerors that qualify as a resident vendor. A resident vendor is an offeror that (a) is authorized to transact business within South Carolina, (b) maintains an office* in South Carolina, (c) either (1) maintains a minimum \$10,000.00 representative inventory at the time of the solicitation, or (2) is a manufacturer which is headquartered and has at least a ten million dollar payroll in South Carolina, and the product is made or processed from raw materials into a finished end-product by such manufacturer or an affiliate (as defined in section 1563 of the Internal Revenue Code) of such manufacturer, and (d) has paid all assessed taxes. If applicable, preference will be applied as required by law.	OFFERORS REQUESTING THIS PREFERENCE MUST INITIAL HERE. _____.
	*ADDRESS AND PHONE OF IN-STATE OFFICE
	In-State Office Address same as Home Office Address In-State Office Address same as Notice Address (CHECK ONLY ONE)

PREFERENCES – SC/US END-PRODUCT (June 2005): Section 11-35-1524 provides a preference to vendors offering South Carolina end-products or US end-products, if those products are made, manufactured, or grown in SC or the US, respectively. An end-product is the item identified for acquisition in this solicitation, including all component parts in final form and ready for the use intended. The terms "made," "manufactured," and "grown" are defined by Section 11-35-1524(B). By signing your offer and checking the appropriate space(s) provided and identified on the bid schedule, offeror certifies that the end-product(s) is either made, manufactured or grown in South Carolina, or other states of the United States, as applicable. Preference will be applied as required by law.	IF THIS PREFERENCE APPLIES TO THIS PROCUREMENT, PART VII (BIDDING SCHEDULE) WILL INCLUDE A PLACE TO CLAIM THE PREFERENCE. OFFERORS REQUESTING THIS PREFERENCE MUST CHECK THE APPROPRIATE SPACES ON THE BIDDING SCHEDULE.
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## APPENDIX - E

	<p style="text-align: center;">State of South Carolina</p> <p style="text-align: center;">Change Order #x</p>	<p><b>Contract Number</b> :</p> <p>Procurement Officer :</p> <p>Phone :</p> <p>E-Mail Address :</p> <p>Address :</p>	
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DESCRIPTION:

USING GOVERNMENTAL UNIT:

CONTRACTOR'S NAME AND ADDRESS:

TYPE OF CHANGE:

- ☐ Change to Contract Scope of Work
- ☐ Change to Contract Pricing Pursuant to Existing Contract Clause.  
Clause Name \_\_\_\_\_. Clause No. \_\_\_\_\_
- ☐ Administrative Change to Contract (such as changes in paying office, name of Agency Contract Administrator, etc.)
- ☐ Other Change

### IMPORTANT NOTICE:

- ☐ **Change Order:** Contractor is required to sign this document and return \_\_\_\_\_ copies to the procurement officer named above by the following date: \_\_\_\_\_.
- ☐ **Contract Modification:** Contractor is required to acknowledge receipt of this document in writing by the following date: \_\_\_\_\_. Contractor does not indicate agreement with change simply by acknowledging receipt.

DESCRIPTION OF CHANGE / MODIFICATION:

Except as provided herein, all terms and conditions of the Contract referenced above remain unchanged and in full force and effect.

SIGNATURE OF PERSON AUTHORIZED TO EXECUTE THIS  
CHANGE ORDER ON BEHALF OF CONTRACTOR:

By: \_\_\_\_\_  
(authorized signature)

(printed name of person signing above)

Its: \_\_\_\_\_  
(title of person signing above)

Date: \_\_\_\_\_

SIGNATURE OF PERSON AUTHORIZED TO EXECUTE /  
ISSUE THIS CHANGE ORDER / CONTRACT MODIFICATION  
ON BEHALF OF USING GOVERNMENTAL ENTITY:


By: \_\_\_\_\_  
(authorized signature)

(printed name of person signing above)

Its: \_\_\_\_\_  
(title of person signing above)

Date: \_\_\_\_\_

## APPENDIX - F

	<p>State of South Carolina</p> <p><b>RECORD OF NEGOTIATIONS</b></p>	<p><b>Solicitation Number</b> : _____</p> <p>Procurement Officer : _____</p> <p>Phone : _____</p> <p>E-Mail Address : _____</p> <p>Address : _____</p>
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CONTRACT DESCRIPTION:

USING GOVERNMENTAL UNIT:

OFFEROR'S NAME AND ADDRESS:

**IMPORTANT NOTICE:**

Offeror is required to sign this document and return \_\_\_\_\_ copies to the procurement officer named above by the following date: \_\_\_\_\_.

DESCRIPTION OF NEGOTIATED CHANGES:

(attach additional pages if necessary)

Except as provided herein, all terms and conditions of the Offer and the Solicitation remain unchanged and remain in full force and effect.

SIGNATURE OF PERSON AUTHORIZED TO SUBMIT  
BINDING OFFER TO ENTER A CONTRACT ON BEHALF OF  
OFFEROR:

By: \_\_\_\_\_  
(authorized signature)

\_\_\_\_\_  
(printed name of person signing above)

Its: \_\_\_\_\_  
(title of person signing above)

Date: \_\_\_\_\_

SIGNATURE OF PERSON AUTHORIZED TO APPROVE  
NEGOTIATED MODIFICATIONS ON BEHALF OF USING  
GOVERNMENTAL ENTITY:

By: \_\_\_\_\_  
(authorized signature)

\_\_\_\_\_  
(printed name of person signing above)

Its: \_\_\_\_\_  
(title of person signing above)

Date: \_\_\_\_\_

## APPENDIX - G

Table 15-2--Instructions for Submitting Cost/Price Proposals When Cost or Pricing Data Are Required

This document provides instructions for preparing a contract pricing proposal when cost or pricing data are required.

Note 1: There is a clear distinction between submitting cost or pricing data and merely making available books, records, and other documents without identification. The requirement for submission of cost or pricing data is met when all accurate cost or pricing data reasonably available to the offeror have been submitted, either actually or by specific identification, to the Contracting Officer or an authorized representative. As later information comes into your possession, it should be submitted promptly to the Contracting Officer in a manner that clearly shows how the information relates to the offeror's price proposal. The requirement for submission of cost or pricing data continues up to the time of agreement on price, or an earlier date agreed upon between the parties if applicable.

Note 2: By submitting your proposal, you grant the Contracting Officer or an authorized representative the right to examine records that formed the basis for the pricing proposal. That examination can take place at any time before award. It may include those books, records, documents, and other types of factual information (regardless of form or whether the information is specifically referenced or included in the proposal as the basis for pricing) that will permit an adequate evaluation of the proposed price.

### I. General Instructions

A. You must provide the following information on the first page of your pricing proposal:

- (1) Solicitation, contract, and/or modification number;
- (2) Name and address of offeror;
- (3) Name and telephone number of point of contact;
- (4) Name of contract administration office (if available);
- (5) Type of contract action (that is, new contract, change order, price revision/redetermination, letter contract, unpriced order, or other);
- (6) Proposed cost; profit or fee; and total;
- (7) Whether you will require the use of Government property in the performance of the contract, and, if so, what property;
- (8) Whether your organization is subject to cost accounting standards; whether your organization has submitted a CASB Disclosure Statement, and if it has been determined adequate; whether you have been notified that you are or may be in noncompliance with your Disclosure Statement or CAS (other than a noncompliance that the cognizant Federal agency official has determined to have an immaterial cost impact), and, if yes, an explanation; whether any aspect of this proposal is inconsistent with your disclosed practices or applicable CAS, and, if so, an explanation; and whether the proposal is consistent with your established estimating and accounting principles and procedures and FAR Part 31, Cost Principles, and, if not, an explanation;
- (9) The following statement: This proposal reflects our estimates and/or actual costs as of this date and conforms with the instructions in FAR 15.403-5(b)(1) and Table 15-2. By submitting this proposal, we grant the Contracting Officer and authorized representative(s) the right to examine, at any time before award, those records, which include books, documents, accounting procedures and practices, and other data, regardless of type and form or whether such supporting information is specifically referenced or included in the proposal as the basis for pricing, that will permit an adequate evaluation of the proposed price.
- (10) Date of submission; and
- (11) Name, title, and signature of authorized representative.

B. In submitting your proposal, you must include an index, appropriately referenced, of all the cost or pricing data and information accompanying or identified in the proposal. In addition, you must annotate any future additions and/or revisions, up to the date of agreement on price, or an earlier date agreed upon by the parties, on a supplemental index.

C. As part of the specific information required, you must submit, with your proposal, cost or pricing data (that is, data that are verifiable and factual and otherwise as defined at FAR 2.101). You must clearly identify on your cover sheet that cost or pricing data are included as part of the proposal. In addition, you must submit with your proposal any information reasonably required to explain your estimating process, including--

## APPENDIX - G

(1) The judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data; and

(2) The nature and amount of any contingencies included in the proposed price.

D. You must show the relationship between contract line item prices and the total contract price. You must attach cost-element breakdowns for each proposed line item, using the appropriate format prescribed in the "Formats for Submission of Line Item Summaries" section of this table. You must furnish supporting breakdowns for each cost element, consistent with your cost accounting system.

E. When more than one contract line item is proposed, you must also provide summary total amounts covering all line items for each element of cost.

F. Whenever you have incurred costs for work performed before submission of a proposal, you must identify those costs in your cost/price proposal.

G. If you have reached an agreement with Government representatives on use of forward pricing rates/factors, identify the agreement, include a copy, and describe its nature.

H. As soon as practicable after final agreement on price or an earlier date agreed to by the parties, but before the award resulting from the proposal, you must, under the conditions stated in FAR 15.406-2, submit a Certificate of Current Cost or Pricing Data.

### II. Cost Elements

Depending on your system, you must provide breakdowns for the following basic cost elements, as applicable:

A. Materials and services. Provide a consolidated priced summary of individual material quantities included in the various tasks, orders, or contract line items being proposed and the basis for pricing (vendor quotes, invoice prices, etc.). Include raw materials, parts, components, assemblies, and services to be produced or performed by others. For all items proposed, identify the item and show the source, quantity, and price. Conduct price analyses of all subcontractor proposals. Conduct cost analyses for all subcontracts when cost or pricing data are submitted by the subcontractor. Include these analyses as part of your own cost or pricing data submissions for subcontracts expected to exceed the appropriate threshold in FAR 15.403-4. Submit the subcontractor cost or pricing data as part of your own cost or pricing data as required in paragraph IIA(2) of this table. These requirements also apply to all subcontractors if required to submit cost or pricing data.

(1) Adequate Price Competition. Provide data showing the degree of competition and the basis for establishing the source and reasonableness of price for those acquisitions (such as subcontracts, purchase orders, material order, etc.) exceeding, or expected to exceed, the appropriate threshold set forth at FAR 15.403-4 priced on the basis of adequate price competition. For interorganizational transfers priced at other than the cost of comparable competitive commercial work of the division, subsidiary, or affiliate of the contractor, explain the pricing method (see FAR 31.205-26(e)).

(2) All Other. Obtain cost or pricing data from prospective sources for those acquisitions (such as subcontracts, purchase orders, material order, etc.) exceeding the threshold set forth in FAR 15.403-4 and not otherwise exempt, in accordance with FAR 15.403-1(b) (i.e., adequate price competition, commercial items, prices set by law or regulation or waiver). Also provide data showing the basis for establishing source and reasonableness of price. In addition, provide a summary of your cost analysis and a copy of cost or pricing data submitted by the prospective source in support of each subcontract, or purchase order that is the lower of either \$10,000,000 or more, or both more than the pertinent cost or pricing data threshold and more than 10 percent of the prime contractor's proposed price. The Contracting Officer may require you to submit cost or pricing data in support of proposals in lower amounts. Subcontractor cost or pricing data must be accurate, complete and current as of the date of final price agreement, or an earlier date agreed upon by the parties, given on the prime contractor's Certificate of Current Cost or Pricing Data. The prime contractor is responsible for updating a prospective subcontractor's data. For standard commercial items fabricated by the offeror that are generally stocked in inventory, provide a separate cost breakdown, if priced based on cost. For interorganizational transfers priced at cost, provide a separate breakdown of cost elements. Analyze the cost or pricing data and submit the results of your analysis of the prospective source's proposal. When submission of a prospective source's cost or pricing data is required as described in this paragraph, it must be included along with your own cost or pricing data submission, as part of your own cost or pricing data. You must also submit any other cost or pricing data obtained from a subcontractor, either actually or by specific identification, along with the results of any analysis performed on that data.

## APPENDIX - G

B. Direct Labor. Provide a time-phased (e.g., monthly, quarterly, etc.) breakdown of labor hours, rates, and cost by appropriate category, and furnish bases for estimates.

C. Indirect Costs. Indicate how you have computed and applied your indirect costs, including cost breakdowns. Show trends and budgetary data to provide a basis for evaluating the reasonableness of proposed rates. Indicate the rates used and provide an appropriate explanation.

D. Other Costs. List all other costs not otherwise included in the categories described above (e.g., special tooling, travel, computer and consultant services, preservation, packaging and packing, spoilage and rework, and Federal excise tax on finished articles) and provide bases for pricing.

E. Royalties. If royalties exceed \$1,500, you must provide the following information on a separate page for each separate royalty or license fee:

- (1) Name and address of licensor.
- (2) Date of license agreement.
- (3) Patent numbers.
- (4) Patent application serial numbers, or other basis on which the royalty is payable.
- (5) Brief description (including any part or model numbers of each contract item or component on which the royalty is payable).
- (6) Percentage or dollar rate of royalty per unit.
- (7) Unit price of contract item.
- (8) Number of units.
- (9) Total dollar amount of royalties.
- (10) If specifically requested by the Contracting Officer, a copy of the current license agreement and identification of applicable claims of specific patents (see FAR 27.204 and 31.205-37).

F. Facilities Capital Cost of Money. When you elect to claim facilities capital cost of money as an allowable cost, you must submit Form CASB-CMF and show the calculation of the proposed amount (see FAR 31.205-10).

### III. Formats for Submission of Line Item Summaries

#### A. New Contracts (Including Letter Contracts)

Column #1 – Cost elements

Column #2 – Proposed contract estimate – total cost

Column #3 – Proposed contract estimate – unit cost

Column #4 - Reference

#### Column and Instruction

- (1) Enter appropriate cost elements.
- (2) Enter those necessary and reasonable costs that, in your judgment, will properly be incurred in efficient contract performance. When any of the costs in this column have already been incurred (e.g., under a letter contract), describe them on an attached supporting page. When preproduction or startup costs are significant, or when specifically requested to do so by the Contracting Officer, provide a full identification and explanation of them.
- (3) Optional, unless required by the Contracting Officer.
- (4) Identify the attachment in which the information supporting the specific cost element may be found. (Attach separate pages as necessary.)

#### B. Change Orders, Modifications, and Claims

Column #1 – Cost elements

Column #2 - Estimated cost of all work deleted

Column #3 - Cost of deleted work already performed

Column #4 - Net cost to be deleted

Column #5 – Cost of work added

Column #6 – Net cost of change

Column #7 – Reference

## APPENDIX - G

### Column and Instruction

- (1) Enter appropriate cost elements.
- (2) Include the current estimates of what the cost would have been to complete the deleted work not yet performed (not the original proposal estimates), and the cost of deleted work already performed.
- (3) Include the incurred cost of deleted work already performed, using actuals incurred if possible, or, if actuals are not available, estimates from your accounting records. Attach a detailed inventory of work, materials, parts, components, and hardware already purchased, manufactured, or performed and deleted by the change, indicating the cost and proposed disposition of each line item. Also, if you desire to retain these items or any portion of them, indicate the amount offered for them.
- (4) Enter the net cost to be deleted, which is the estimated cost of all deleted work less the cost of deleted work already performed. Column (2) minus Column (3) equals Column (4).
- (5) Enter your estimate for cost of work added by the change. When nonrecurring costs are significant, or when specifically requested to do so by the Contracting Officer, provide a full identification and explanation of them. When any of the costs in this column have already been incurred, describe them on an attached supporting schedule.
- (6) Enter the net cost of change, which is the cost of work added, less the net cost to be deleted. Column (5) minus Column (4) equals Column (6). When this result is negative, place the amount in parentheses.
- (7) Identify the attachment in which the information supporting the specific cost element may be found. (Attach separate pages as necessary.)

### C. Price Revision/Redetermination

Column #1 – cutoff date  
Column #2 – Number of units completed  
Column #3 – Number of Units to be completed  
Column #4 – Contract amount  
Column #5 – Redetermination proposal amount  
Column #6 – Difference  
Column #7 – Cost elements  
Column #8 – Incurred cost - preproduction  
Column #9 – Incurred cost – completed units  
Column #10 – Incurred cost – work in process  
Column #11 – Total incurred cost  
Column #12 – Estimated cost to complete  
Column #13 – Estimated total cost  
Column #14 – Reference

(Use as applicable).

### Column and Instruction

- (1) Enter the cutoff date required by the contract, if applicable.
- (2) Enter the number of units completed during the period for which experienced costs of production are being submitted.
- (3) Enter the number of units remaining to be completed under the contract.
- (4) Enter the cumulative contract amount.
- (5) Enter your redetermination proposal amount.
- (6) Enter the difference between the contract amount and the redetermination proposal amount. When this result is negative, place the amount in parentheses. Column (4) minus Column (5) equals Column (6).
- (7) Enter appropriate cost elements. When residual inventory exists, the final costs established under fixed-price-incentive and fixed-price-redeterminable arrangements should be net of the fair market value of such inventory. In support of subcontract costs, submit a listing of all subcontracts subject to repricing action, annotated as to their status.

## APPENDIX - G

(8) Enter all costs incurred under the contract before starting production and other nonrecurring costs (usually referred to as startup costs) from your books and records as of the cutoff date. These include such costs as preproduction engineering, special plant rearrangement, training program, and any identifiable nonrecurring costs such as initial rework, spoilage, pilot runs, etc. In the event the amounts are not segregated in or otherwise available from your records, enter in this column your best estimates. Explain the basis for each estimate and how the costs are charged on your accounting records (e.g., included in production costs as direct engineering labor, charged to manufacturing overhead). Also show how the costs would be allocated to the units at their various stages of contract completion.

(9) Enter in Column (9) the production costs from your books and records (exclusive of preproduction costs reported in Column (8)) of the units completed as of the cutoff date.

(10) Enter in Column (10) the costs of work in process as determined from your records or inventories at the cutoff date. When the amounts for work in process are not available in your records but reliable estimates for them can be made, enter the estimated amounts in Column (10) and enter in Column (9) the differences between the total incurred costs (exclusive of preproduction costs) as of the cutoff date and these estimates. Explain the basis for the estimates, including identification of any provision for experienced or anticipated allowances, such as shrinkage, rework, design changes, etc. Furnish experienced unit or lot costs (or labor hours) from inception of contract to the cutoff date, improvement curves, and any other available production cost history pertaining to the item(s) to which your proposal relates.

(11) Enter total incurred costs (Total of Columns (8), (9), and (10)).

(12) Enter those necessary and reasonable costs that in your judgment will properly be incurred in completing the remaining work to be performed under the contract with respect to the item(s) to which your proposal relates.

(13) Enter total estimated cost (Total of Columns (11) and (12)).

(14) Identify the attachment in which the information supporting the specific cost element may be found. (Attach separate pages as necessary.)

[62 FR 51230, Sept. 30, 1997, as amended at 63 FR 58596, Oct. 30, 1998;  
66 FR 2129, Jan. 10, 2001; 67 FR 6115, Feb. 8, 2002]

## APPENDIX - H

### IMPORTANT TAX NOTICE - NONRESIDENTS ONLY

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

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Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

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For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at [www.sctax.org](http://www.sctax.org).

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This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-898-5383.





STATE OF SOUTH CAROLINA  
DEPARTMENT OF REVENUE  
**NONRESIDENT TAXPAYER  
REGISTRATION AFFIDAVIT  
INCOME TAX WITHHOLDING**

**I-312**  
(Rev. 6/26/01)  
3323

The undersigned nonresident taxpayer on oath, being first duly sworn, hereby certifies as follows:

1. Name of Nonresident Taxpayer: \_\_\_\_\_
2. Trade Name, if applicable (Doing Business As):  
\_\_\_\_\_
3. Mailing Address: \_\_\_\_\_
4. Federal Identification Number: \_\_\_\_\_
5. \_\_\_\_\_ Hiring or Contracting with:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_ Receiving Rentals or Royalties From:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_ Beneficiary of Trusts and Estates:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_
6. I hereby certify that the above named nonresident taxpayer is currently registered with (check the appropriate box):  
☐ The South Carolina Secretary of State or  
☐ The South Carolina Department of Revenue  
Date of Registration: \_\_\_\_\_

7. I understand that by this registration, the above named nonresident taxpayer has agreed to be subject to the jurisdiction of the South Carolina Department of Revenue and the courts of South Carolina to determine its South Carolina tax liability, including estimated taxes, together with any related interest and penalties.
8. I understand the South Carolina Department of Revenue may revoke the withholding exemption granted under Code Sections 12-8-540 (rentals), 12-8-550 (temporarily doing business or professional services in South Carolina), and 12-8-570 (distributions to nonresident beneficiary by trusts or estates) at any time it determines that the above named nonresident taxpayer is not cooperating with the Department in the determination of its correct South Carolina tax liability.

The undersigned understands that any false statement contained herein could be punished by fine, imprisonment or both.

Recognizing that I am subject to the criminal penalties under Code Section 12-54-44 (B) (6) (a) (i), I declare that I have examined this affidavit and to the best of my knowledge and belief, it is true, correct and complete.

\_\_\_\_\_  
Signature of Nonresident Taxpayer (Owner, Partner or Corporate Officer, when relevant) (Seal) \_\_\_\_\_  
Date

If Corporate officer state title: \_\_\_\_\_

\_\_\_\_\_  
(Name - Please Print)

**INSTRUCTIONS**  
**NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT**

**REQUIREMENTS TO MAKE WITHHOLDING PAYMENTS**

Code Section 12-8-550 requires persons hiring or contracting with a nonresident taxpayer to withhold 2% of each payment made to the nonresident where the payments under the contract exceed \$10,000.00. However, this section does not apply to payments on purchase orders for tangible personal property when those payments are not accompanied by services to be performed in this state.

Code Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation.

Code Section 12-8-570 requires trusts or estates making distribution of South Carolina taxable income to a nonresident beneficiary to withhold 7% of the beneficiary's distribution which is attributable to South Carolina taxable income.

**PURPOSE OF AFFIDAVIT**

A person is not required to withhold taxes with regard to any nonresident taxpayer who submits an affidavit certifying that it is registered with either the South Carolina Secretary of State or the South Carolina Department of Revenue.

Our Internet address is: [\*\*http://www.sctax.org\*\*](http://www.sctax.org)

# OFFEROR'S CHECKLIST

## AVOID COMMON BID/PROPOSAL MISTAKES

Review this checklist prior to submitting your bid/proposal.  
If you fail to follow this checklist, you risk having your bid/proposal rejected.

- DO NOT INCLUDE ANY OF YOUR STANDARD CONTRACT FORMS!
- UNLESS EXPRESSLY REQUIRED, DO NOT INCLUDE ANY ADDITIONAL BOILERPLATE CONTRACT CLAUSES.
- REREAD YOUR ENTIRE BID/PROPOSAL TO MAKE SURE YOUR BID/PROPOSAL DOES NOT TAKE EXCEPTION TO ANY OF THE STATE'S MANDATORY REQUIREMENTS.
- MAKE SURE YOU HAVE PROPERLY MARKED ALL PROTECTED, CONFIDENTIAL, OR TRADE SECRET INFORMATION IN ACCORDANCE WITH THE INSTRUCTIONS ENTITLED: SUBMITTING CONFIDENTIAL INFORMATION. **DO NOT MARK YOUR ENTIRE BID/PROPOSAL AS CONFIDENTIAL, TRADE SECRET, OR PROTECTED! DO NOT INCLUDE A LEGEND ON THE COVER STATING THAT YOUR ENTIRE RESPONSE IS NOT TO BE RELEASED!**
- HAVE YOU PROPERLY ACKNOWLEDGED ALL AMENDMENTS? INSTRUCTIONS REGARDING HOW TO ACKNOWLEDGE AN AMENDMENT SHOULD APPEAR IN ALL AMENDMENTS ISSUED.
- MAKE SURE YOUR BID/PROPOSAL INCLUDES A COPY OF THE SOLICITATION COVER PAGE. MAKE SURE THE COVER PAGE IS SIGNED BY A PERSON THAT IS AUTHORIZED TO CONTRACTUALLY BIND YOUR BUSINESS.
- MAKE SURE YOUR BID/PROPOSAL INCLUDES THE NUMBER OF COPIES REQUESTED.
- CHECK TO ENSURE YOUR BID/PROPOSAL INCLUDES EVERYTHING REQUESTED!
- IF YOU HAVE CONCERNS ABOUT THE SOLICITATION, DO NOT RAISE THOSE CONCERNS IN YOUR RESPONSE! **AFTER OPENING, IT IS TOO LATE! IF THIS SOLICITATION INCLUDES A PRE-BID/PROPOSAL CONFERENCE OR A QUESTION & ANSWER PERIOD, RAISE YOUR QUESTIONS AS A PART OF THAT PROCESS!** PLEASE SEE INSTRUCTIONS UNDER THE HEADING "SUBMISSION OF QUESTIONS" AND ANY PROVISIONS REGARDING PRE-BID/PROPOSAL CONFERENCES.

This checklist is included only as a reminder to help offerors avoid common mistakes.  
Responsiveness will be evaluated against the solicitation, **not** against this checklist.  
You do not need to return this checklist with your response.

## APPENDIX - J

Form 80-SC-EL-1  
Adopted 05/27/80  
Revised 07/01/88

### STATE OF SOUTH CAROLINA STANDARD EQUIPMENT AGREEMENT

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between \_\_\_\_\_  
whose address is \_\_\_\_\_  
(Lessor) and \_\_\_\_\_, an agency of the State of South Carolina (Lessee).

If this Agreement is entered into as a result of a solicitation, in the event of an inconsistency between provisions of this Agreement and other terms of the solicitation, the inconsistency shall be resolved by giving precedence to the terms and conditions of the solicitation. This Agreement is entered into in connection with solicitation or contract number \_\_\_\_\_.

Lessor hereby leases to Lessee the equipment described on the attached Exhibit A, upon the following terms:

1. **TERM OF LEASE**

The term of this Agreement shall commence on the date of acceptance by Lessee and shall continue for a period of \_\_\_\_\_  
\_\_\_\_\_ unless sooner terminated by either party as provided herein. The initial term and renewal term cannot exceed a total of five (5) years.

2. **RENTAL**

Lessee agrees to pay rental of: (1) \_\_\_\_\_ Dollars per \_\_\_\_\_ during the term of this Agreement, or (2) the amounts and upon the conditions stated in the Schedule of Payments attached as Exhibit B. The first rental payment shall be due and payable on the day after the date of acceptance by Lessee. Subsequent payments shall be due on the \_\_\_\_\_ day of each \_\_\_\_\_ thereafter. South Carolina sales or use taxes shall be stated separately.

3. **DELIVERY**

Delivery shall be not later than \_\_\_\_\_ from date hereof, time being of the essence. Delivery costs shall be borne by \_\_\_\_\_, and such costs shall not exceed \_\_\_\_\_.

4. **INSTALLATION**

Lessor shall install the equipment at a suitable location designated by Lessee. Installation costs shall be borne by \_\_\_\_\_, and such costs shall not exceed \_\_\_\_\_.

5. **ACCEPTANCE**

Upon delivery and installation of the equipment at \_\_\_\_\_, Lessee shall test and inspect it, and if in good working order, accept the equipment and acknowledge the acceptance in writing. The date of acceptance shall be the date upon which Lessee acknowledges in writing that the equipment is installed and operating properly.

6. **MAINTENANCE**

Lessee shall use the equipment in a careful and proper manner in compliance with its intended use. Lessor shall at its expense maintain each item of equipment in good mechanical condition and working order. Lessee shall not be responsible for normal wear and tear resulting from the use thereof.

OR

Maintenance shall be as stated on the attached Exhibit C.

7. **INSPECTION**

Lessor shall have the right, upon reasonable prior notice to Lessee and during Lessee's normal working hours, to inspect the equipment and observe its use at the premises of Lessee.

8. **TITLE**

The equipment shall at all times remain the property of Lessor and Lessee shall have no right, title, or interest therein except as expressly set forth in this Agreement.

9. **GOVERNING LAW**

This Agreement shall be governed in all respects by the laws of the State of South Carolina.

10. **HOLD HARMLESS**

Lessor shall indemnify and save Lessee harmless from any and all liability, damages, expenses, causes of action, suits, claims or judgments arising from injury to person or property resulting from delivery or transportation of equipment caused by the negligence of Lessor, his agents or servants, and Lessor shall at its own expense, defend any and all suits which may be brought against Lessee, either alone or in conjunction with others, upon any such liability or claim or claims.

11. **JURISDICTION**

Lessor acknowledges that it is subject to the jurisdiction and process of the State of South Carolina as to all matters and disputes arising pursuant to the Agreement and the performance thereof, including any questions as to liability for taxes, licenses, or fees levied by the State or its political subdivisions. Lessor agrees to execute any and all agreements necessary to accomplish this provision.

12. **DEFAULT**

Upon the failure of Lessee to make any payment when due, or upon the failure of Lessee to perform any other obligations imposed upon it by this Agreement and upon the continuance of such failure after the receipt of thirty (30) days written notice thereof from Lessor, Lessee shall be deemed to be in default and Lessor shall have the right to terminate this Agreement.

Upon the failure of Lessor to perform any obligation imposed upon it by this Agreement, and upon the continuance of such failure after receipt of \_\_\_\_\_ days written notice thereof from Lessee, Lessor shall be deemed to be in default and Lessee shall have the right to terminate this Agreement.

## APPENDIX - J

13. **TERMINATION**

- (a) This Agreement may be terminated by Lessee's giving thirty (30) days prior written notice of such termination to Lessor. Lessee shall negotiate reasonable termination costs, if applicable.
- (b) Upon the termination of this Agreement as a result of a default by Lessor, Lessee shall be entitled to proceed by appropriate court action to enforce specific performance of this Agreement, to recover damages for breach, or to take such other action as may be permitted by law.

14. **NON-APPROPRIATION CLAUSE**

Notwithstanding any other provisions of this Agreement, the parties agree that the rental is payable by Lessee from appropriations, grants, and monies from the State Legislature and other governmental entities. In the event sufficient appropriation, grants, and monies are not made available to Lessee to pay this rent for any fiscal year, this Agreement shall terminate without further obligation of Lessee. In such event, the chief executive officer of Lessee shall certify to Lessor that sufficient funds have not been made available to Lessee to meet the obligations of this Agreement; and such certification shall be conclusive upon the parties.

15. **RENEWAL**

Lessee may, at its option by giving written notice to Lessor not less than thirty (30) days prior to the expiration of the initial term, renew this Agreement for an additional term of \_\_\_\_\_ upon the same terms and conditions as this Agreement, provided that the initial term and the renewal term cannot exceed a total of five (5) years.

16. **NOTICES**

All notices and other communications made or required to be given under this Agreement shall be made in writing and mailed to the other party at its address as set forth herein or at such address as the party may provide from time to time.

Lessor's address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Lessee's address: \_\_\_\_\_

\_\_\_\_\_

17. **ASSIGNMENT**

Lessor may, with the prior approval of Lessee, assign its right to receive payment of rent hereunder, provided that such assignments shall not relieve Lessor of its responsibility to perform any duty imposed herein.

18. **RELOCATION**

In the event Lessee desires to relocate the equipment within its offices or elsewhere in South Carolina State Government, Lessor will submit a price quotation not to exceed Lessor's cost for the move or will prepare equipment to be moved by other mutually acceptable means.

19. **PATENTS INDEMNITY**

Lessor shall defend, at its own expense, any action brought against Lessee to the extent that it is based on a claim that the equipment supplies by lessor infringes a United States Patent, and Lessor will pay any costs and will indemnify Lessee for all expenses which are attributable to any such claim including any award

of damages against Lessee, provided Lessee gives Lessor prompt notice in writing of such claim, and further provided Lessor shall have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

Should the equipment become, or in Lessor's opinion be likely to become, the subject of a claim or infringement of a United States Patent, Lessee shall permit Lessor, at its option and expense, either to procure for Lessee the right to continue using the equipment, to replace or modify the same so that they become non-infringing, or to discontinue the use of the equipment and accept its return.

Lessor shall have no liability to Lessee with respect to any claim of patent infringement which is based upon the combination of equipment supplied hereunder with equipment or devices not supplied by Lessor.

The foregoing states the entire liability of Lessor with respect to infringement of patents by the equipment.

20. **PAYMENTS**

All payments due pursuant to this Agreement are solely the responsibility of the agency designated Lessee; the Office of General Services has no liability with respect to payments or breaches.

21. **ENTIRE AGREEMENT**

This Agreement, attached exhibits hereto, and the solicitation documents, if any, constitute the entire Agreement between the parties and shall not be amended,

altered or changed except after prior written approval from the Office of General Services, in compliance with the S.C. Consolidated Procurement Code, and by written agreement, signed by the parties.

Accepted and executed the date stated above.

LESSOR:

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

LESSEE:

BY: \_\_\_\_\_

## APPENDIX - J

ITS: \_\_\_\_\_

## APPENDIX - K

Note: The five examples provided in this Appendix L are just that, examples to illustrate a concept. The examples provided may have some defect and their inclusion here does not reflect any official approval for the use of these formulas or methods of determining a low bidder.

### **EXAMPLE #1 – Weighted Value**

#### **EVALUATION**

The State will use the following process in the evaluation and determination of an award:

- (a) An award will be made to the responsive and responsible bidder for each lot that offers the highest weighted value discount for all items listed in the Bidding Schedule. All categories in each lot that are being bid must be completely filled in or the bid will be considered non-responsive.
- (b) In addition, the State will make additional awards to responsive and responsible bidders that offer an average weighted value discount that is 5% or less than the base price of the lowest bidder stated in paragraph (a) above.
- (c) **Sample  
Vendor A Response**

# APPENDIX - K

## BIDDING SCHEDULE

**Brand ABC**  
(Bid only as specified)

Category	Discount Off of Manufacture List Price		Weighted Value	Total
<b>LCD Projectors</b>				
Micro Portables (6 pounds or less)	45%	X	20%	= <u>9</u>
Ultra Portables (6 pounds – 12 pounds)	55%	X	25%	= <u>13.75</u>
Portables (12 – 20 pounds)	40%	X	35%	= <u>14</u>
Accessories	30%	X	20%	= <u>6</u>
		Total	100	= <u>42.75</u>
		Total		<u>45.74</u>



# APPENDIX - K

## BIDDING SCHEDULE

### LOT A: Dukane (Bid only as specified)

Category	Discount Off of Manufacture List Price	Weighted Value	Total
<b>LCD Projectors</b>			
Micro Portables (6 pounds or less)	X	20%	=
Ultra Portables (6 pounds – 12 pounds)	X	25%	=
Portables (12 – 20 pounds)	X	35%	=
Accessories	X	20%	=
	Total	100	=
	Total		

\*The weights shown above will be applied by the State in the evaluation of bid responses to determine the lowest price.

**EXAMPLE #2 – Weighted Value**

**LOT B: ESRI**

**The following software products are indicative of ESRI's product line that may be initially placed on the contract(s) by the State at the beginning of the term contract(s):**

- Arcview (current version/release)
- Arcview Upgrade (current version/release)
- Arcview Spatial Analyst Ext for WIN 95, NT (current version/release)
- Arcview Spatial Analyst Ext 12 Mon. SPRT FOR WIN 95 (current version/release)
- Arcview Ntwrk Analyst Ext for WIN 95, NT (current version/release)
- Arcview Ntwrk Analyst Ext 12 Mon. SPRT FOR WIN 95 (current version/release)
- Arcpress for Arcview GIS for WIN 3.X, 95, NT (current version/release)
- ArcView Concurrent User License (current version/release)
- ArcGIS 3D Analyst Concurrent User Package (current version/release)
- ArcGIS StreetMap USA Concurrent Use License (current version/release)
- ArcGIS Geostatistical Analyst Concurrent Use Package (current version/release)
- ArcGIS Spatial Analyst Concurrent Use Package (current version/release)

**BIDDING SCHEDULE**

**ESRI = Brand**

**(Bid only as specified)**

**CATEGORY**

**DISCOUNT OFF OF ESRI ESTIMATED  
RETAIL PRICE/LIST PRICE**

**License Only**

\_\_\_\_\_

**Software Upgrade**

\_\_\_\_\_

**Software Media**

\_\_\_\_\_

**Software Documentation**

\_\_\_\_\_

**Full Package Product\Shrink-Wrap Product**

\_\_\_\_\_

## APPENDIX - K

### EVALUATION OF LOT B (ESRI)

The State will evaluate bids for Lot B (ESRI) by calculating the total weighted discount for the five categories (using the weighted averages below for each category) and then add the total weighted discounts up for ESRI to determine the total score for each bidder.

<u>CATEGORY</u>	<u>WEIGHTED AVERAGE</u>
<b>Software License Only</b>	<b>35%</b>
<b>Software Upgrade</b>	<b>30%</b>
<b>Software Media</b>	<b>19%</b>
<b>Documentation</b>	<b>8%</b>
<b>Full Package ("Shrink-Wrap) Product</b>	<b>8%</b>

### SAMPLE BID:

<u>CATEGORY</u>	<u>DISCOUNT OFF OF ESRI's ESTIMATED RETAIL PRICE/LIST PRICE</u>
<b>Software License Only</b>	<b>10%</b>
<b>Software Upgrade</b>	<b>5%</b>
<b>Software Media</b>	<b>5%</b>
<b>Documentation</b>	<b>3%</b>
<b>Full Package ("Shrink-Wrap") Product</b>	<b>5%</b>

## APPENDIX - K

### Sample Evaluation

<u>CATEGORY</u>	<u>WEIGHTED AVERAGE)</u>	<u>DISCOUNT OFF OF <b>ESRI's</b> ESTIMATED RETAIL PRICE/LIST PRICE</u>					
<b>Software License Only</b>	35%	10%	=	.35	x	10	3.50
<b>Software Upgrade</b>	30%	5%	=	.30	x	5	1.50
<b>Software Media</b>	19%	5%	=	.19	x	5	0.95
<b>Documentation</b>	8%	3%	=	.08	x	3	0.24
<b>Full Package ("Shrink- Wrap) Product</b>	8%	5%	=	.08	x	5	0.40
			<b>Total</b>				6.59

From the evaluation process, the State will award contract(s) to the responsive and responsible bidder with the highest total score for Lot B (ESRI) and responsive and responsible bidders whose total scores are within five percent (5%) of the highest total score for Lot B (ESRI).

## APPENDIX - K

### **EXAMPLE #3 – Fixed Price**

#### **BIDDING SCHEDULE**

**(Reference Novell Master License Agreement (MLA) # 127510-M5Z440)**

**DEADLINE FOR QUESTIONS: CLOSE OF BUSINESS ON JULY 22, 2004**

**Email questions to Debbie Lemmon @ [dlemmon@cio.sc.gov](mailto:dlemmon@cio.sc.gov)**

#### **IMPORTANT**

**THE REFERENCE PRICE IS THE MAXIMUM PRICE THE STATE WILL PAY FOR THE PRODUCTS (RETAIL PRICE LESS PERCENTAGE (%) OFF OF RETAIL)**

**NOTE: BIDDERS MUST BID AT OR BELOW THE REFERENCE PRICE.**

**BIDDERS MUST COMPLETE BIDDER'S PRICE BID NON-ED AND BIDDER'S PRICE BID EDUCATIONAL IN ORDER TO BE CONSIDERED.**

<b>MANUFACTURER/BIDDER'S PRODUCT BID</b>	<b>REFERENCE PRICE: THE MAXIMUM THE STATE WILL PAY:</b>	<b>BIDDER'S PRICE BID NON-ED</b>
<b>EDUCATIONAL</b>		
Novell Master License Agreement ____%	RETAIL PRICE LESS 42%	%
Software License/Maintenance		
Novell Master License Agreement ____%	RETAIL PRICE LESS 10%	%
Premium Technical Support		
Novell Master License Agreement ____%	RETAIL PRICE LESS 10%	%
Documentation (Self Study Material)		

**(All associated cost must be included in the contract price)**

**NOTE: MEDIA IS NOT DISCOUNTED BUT IS FREE WITH AN ORDER OF \$5K OR MORE.**

## **APPENDIX - K**

### **Contract Product Lines**

All vendors submitting a bid must be able to sell to the State the entire product line on contract. The following services are not included:

- Installation
- Implementation
- Consulting Services
- Training

### **Premium Technical Support**

All premium technical support will be performed directly from Novell but purchase orders can be submitted to approved reseller that has been awarded a contract as a result of this solicitation.

### **Performance to Contract**

Performance of the contract awarded to a Novell Approved Reseller(s) is contingent upon Novell Approved Reseller(s) approved to be added to the Novell Master License Agreement (MLA) # 127510-M5Z440.

## APPENDIX - K

### **EXAMPLE #4 – Unit Cost Development**

#### **VIII. Revised Bidding Schedule / Cost Proposal**

##### **REVISED BID SCHEDULE – ITEM 1**

Item	Commodity / Service	Quantity	Unit Of Measure	Unit Price	Extended Price
1	9529310100	229,900	HOURLY		
<b>Description: Contract Labor Services for B&amp;CB – Item 1.</b>					
This item computes hourly rate for employees who are ineligible for Hospitalization insurance or who elect not to purchase Hospitalization insurance.					
Contractor must offer eligible employees (a) Hospitalization coverage; (b) Supplemental policy options; (c) Life Insurance; (d) Credit Union membership and privileges. This item assures that employees who do not participate in Hospitalization insurance, but would be eligible to participate in Life insurance and Credit Union membership and privileges.					
FOR THE PURPOSE OF AN AWARD IT IS ESTIMATED THAT 229,900 HOURS WILL BE REQUIRED ANNUALLY FOR EMPLOYEES WHO DO NOT PARTICIPATE IN HOSPITALIZATION INSURANCE.					

##### **BIDDERS MUST IDENTIFY:**

HOURLY RATE..... \$ 6.00

OVERHEAD..... %

PROFIT..... %

**TOTAL HOURLY COST**..... \$

FOR THE PURPOSE OF EVALUATING BIDS FOR AN AWARD THE HOURLY RATE IS \$6.00. BIDDERS MUST APPLY THE SAME OVERHEAD AND PROFIT PERCENTAGES ACCORDINGLY AND ENTER THEIR **TOTAL HOURLY COST** UNDER UNIT PRICE.

## APPENDIX - K

### REVISED BID SCHEDULE – ITEM 2

Item	Commodity / Service	Quantity	Unit Of Measure	Unit Price	Extended Price
2	9529310100	57,475	HOURLY		
<p><b>Description: Contract Labor Services for B&amp;CB –ITEM 2</b></p> <p>This item computes hourly rate for insurance eligible employees who elect Hospitalization coverage through a duly licensed carrier or financial institution with the employee contributing a maximum of \$93.46 per month of the total premium for single coverage. Insurance eligible employees must work at least 30 hours per week and be employed by contractor at least 60 days.</p> <p>Employees are also eligible to participate in (a) Supplemental policy options; (b) Life Insurance; (c) Credit Union membership and privileges.</p> <p>FOR THE PURPOSE OF AN AWARD IT IS ESTIMATED THAT 57,475 HOURS WILL BE REQUIRED ANNUALLY FOR <b>EMPLOYEES ELECTING INSURANCE.</b></p>					

#### BIDDERS MUST IDENTIFY:

HOURLY RATE..... \$ 6.00

OVERHEAD..... %

PROFIT..... %

**TOTAL HOURLY COST**..... \$

FOR THE PURPOSE OF EVALUATING BIDS FOR AN AWARD THE HOURLY RATE IS \$6.00. BIDDERS MUST APPLY THE SAME OVERHEAD AND PROFIT PERCENTAGES ACCORDINGLY AND ENTER THEIR **TOTAL HOURLY COST** UNDER UNIT PRICE.

**FOR INFORMATION PURPOSES:** THE FOLLOWING ARE THE MINIMUM PAY RATES EACH EMPLOYEE IS TO BE PAID BY CONTRACTOR PER CLASSIFICATION. BIDDERS MUST SUPPLY THE SAME OVERHEAD AND PROFIT PERCENTAGES TO ALL GENERAL SERVICES DIVISION ESTABLISHED HOURLY RATES.



**EXAMPLE #5 – Unit Price Weighting**

Bid for Sedan, Police S./S., Intermediate, 4 Door - Dodge Charger

**III. Scope of Work / Specifications**

Specifications

Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and successful bidder will be held responsible therefor. Deviations must be explained in detail on separate attached sheet(s). (TCP093)

The specification section will consist of the following format for each vehicle:

1. Worksheet for calculating “Unit Price” and “Extended Price”
2. Vehicle Specifications
3. Vehicle Questionnaire

**Offerors are to post the “Base Price”, “Extended Price”, “Manufacturer”, and “Model” information to Section VIII (“Bidding Schedule Summary”).**

# APPENDIX - K

## WORKSHEET

Agency Req.: 990000668					
Item	Commodity / Service	Quantity	Unit Of Measure	Base Price	Extended Price
1	0700610100	25	Each		
<b>Description:</b> Sedan, Police S./S., Intermediate, 4 Door - Dodge Charger with <u>Hemi Engine Only</u> (Marked and Unmarked)					

Manufacturer:\_\_\_\_\_ Model:\_\_\_\_\_

The evaluated amount will consist of the “Base Price” (specified vehicle to include “Factory Installed Items”) plus the weighted value of “Add” option items (“Total Adds” x 25%) minus the weighted value of “Deduct” option items (“Total Deducts” x 25%). Complete the following worksheet to calculate the evaluated amount:

Base Price (enter in the “Base Price” block above).....\$\_\_\_\_\_

PLUS Total Adds \$\_\_\_\_\_ x 0.25 = \$\_\_\_\_\_

MINUS Total Deducts \$\_\_\_\_\_ x 0.25 = < \$\_\_\_\_\_>

**Total Evaluated Amount** \$\_\_\_\_\_

## **APPENDIX - L**

### **Decision Tree**

(for Selecting Clauses for Standard Solicitation Groups used by ITMO & SPO)

1. Select appropriate Basic Group - ITMO or SPO. ITMO should select the appropriate group from the Basic Group, either Standard or and On-Line.
2. Are you buying supplies, services, or both? Select the appropriate group from the Work Acquired Group.
3. Are you using competitive sealed bidding, competitive sealed proposals, or fixed price bidding, best value bidding? Select the appropriate group from the Source Selection Method Group.
4. What do you reasonably anticipate will be the maximum dollar value of a purchase order? Select the appropriate group from the Dollar Value Group.
5. Is the contract longer than one year? If yes, select the Multi-Term Group from the Duration Group.
6. Is the contract for an indefinite quantity of supplies or indefinite delivery of services? If yes, select the ID/IQC Group from the Indefinite Delivery Group.
7. How many using agencies will there be? One, several, or all public entities? Select the appropriate group from the Number of Using Agencies Group?
8. Will the contractor perform substantial services on government property? If yes, select the State Property group.
9. Will award be made by item, by lot, or both? Select the appropriate group from the Award / Offer by Item, Lot, or Both group.

## APPENDIX - L

### SPO Standard Groups

- I. Basic Groups
  - A. Standard
    - 1. Cover Page MMO (001)
    - 2. Page 2 (015)
    - 3. All Part Headers
    - 4. All Clauses in Part Two A
    - 5. Mail Pickup (2B080)
    - 6. Protest B CPO BMMO Address (2B122)
    - 7. Information for Offers to Submit - General (4010)
    - 8. Qualifications of Offeror (5005)
    - 9. All Clauses in Part 7A
    - 10. Offeror=s Check List (9010)
    - 11. Important Tax Notice B Non-Residents Only (9005)
  - B. On-Line
    - 1. Cover Page CIO on-line (005)
    - 2. Page 2 (015)
    - 3. All Part Headers
    - 4. All Clauses in Part Two A
    - 5. On-Line Bidding Instructions (2B105)
    - 6. Protest B CPO BMMO Address (2B122)
    - 7. Information for Offers to Submit - General (4010)
    - 8. Qualifications of Offeror (5005)
    - 9. All Clauses in Part 7A
    - 10. Offeror=s Check List (9010)
    - 11. Important Tax Notice B Non-Residents Only (9005)
- II. Work Acquired Groups
  - A. Supply Contract
    - 1. Acquire Supplies/Equipment (1015)
    - 2. Descriptive Literature B Labeling (2B045)
    - 3. Delivery Date B By Purchase Order (3045)
    - 4. Quality B New (3060)
    - 5. Unit Price Governs (6075)
    - 6. CISG (7B030)
    - 7. Purchasing Card (7B200)
    - 8. Shipping / Risk of Loss (7B220)
  - B. Services Contract
    - 1. Acquire Services (1010)
    - 2. Subcontractor B Identification (5030)
    - 3. Compliance with Laws (7B035)
    - 4. Contractor Personnel (7B060)
    - 5. Contractor=s Obligation B General (7B065)
    - 6. Relationship of the Parties (7B205)
  - C. Supply & Service Contract
    - 1. Acquire Services & Supplies / Equipment (1005)
    - 2. Descriptive Literature B Labeling (2B045) +
    - 3. Delivery Date B By Purchase Order (3045)
    - 4. Subcontractor B Identification (5030)
    - 5. Unit Price Governs (6075)

## APPENDIX - L

6. CISG (7B030)
  7. Compliance with Laws (7B035)
  8. Contractor Personnel (7B060)
  9. Contractor=s Obligation B General (7B065)
  10. Intellectual Property Infringement (7B105)
  11. Material and Workmanship (7B125)
  12. Relationship of the Parties (7B205)
  13. Shipping / Risk of Loss (7B220)
- III. Source Selection Method Groups
- A. IFB
    1. Discussions with Bidders (2B055)
    2. Award Criteria B Bids (6020)
  - B. BVB
    1. Discussions with Bidders (2B055)
    2. Award Criteria B Best Value (6025)
    3. Evaluation Factors B Best Value Bid (6060)
  - C. FPB
    1. Discussions with Bidders (2B055)
    2. Award Criteria B Fixed Price Bidding (6023)
    3. Bids Received After Award B Fixed Price (6045)
  - D. RFP (Standard)
    1. Contents of Offer (RFP) B SPO (2B040)
    2. Discussions with Offerors (2B055)
    3. Opening Proposals B Prices Not Divulged (2B110)
    4. Information for Offerors to Submit B Evaluation (4005)
    5. Award Criteria B Proposals (6030)
    6. Evaluation Factors B Proposals (6065)
    7. Negotiations (6070)
    8. Price Proposal (8015)
  - E. RFP (Solutions Based)
    1. Contents of Offer B RFP B Solutions Based (2B030)
    2. Discussions with Offerors (2B060)
    3. Business Proposals (8010)
- IV. Dollar Value / Size Groups
- A. Single Purchase Order < \$100,000
    1. Default B Short Form (7B080)
    2. Termination for Convenience Short-Form (7B260)
  - B. Single Purchase Order ≥ \$100,000
    1. Changes (7B025)
    2. Price Adjustments (7B160)
    3. Pricing Data-Audit-Inspection (7B185)
    4. Termination for Convenience (7B265)
    5. Default (7B075)
- V. Duration Group
- A. Multi Term
    1. Maximum Contract Period - Estimated (1040)
    2. Term of Contract B Effective Date/Initial Contract (7B240)\
    3. Term of Contract B Option to Renew (7B245)
    4. Term of Contract B Termination by Contractor (7B250)
- VI. Indefinite Delivery Group
- A. ID/IQC

## APPENDIX - L

1. Estimated Quantity B Purchases From Other Sources (7B090)
  2. Estimated Quantity B Unknown (7B095)
  3. Contract Limitations (7B045)
  4. Termination for Convenience B ID/IQC (7B255)
- VII. Number of Using Agencies Group
- A. Single Agency
    1. Delivery / Performance Location (3030)
  - B. Multi-Agency
    1. Delivery / Performance Location B Purchase Order (3015)
    2. Relationship of Using Governmental Units (7B210)
  - C. Statewide Term Contract
    1. Delivery / Performance Location B Purchase Order (3015)
    2. Acceptance of Offers 10% Below Price (7B010)
    3. Relationship of Using Governmental Units (7B210)
    4. Statewide Term Contract (7B225)
    5. Statewide Term Contract - Scope (7B230)
- VIII. State Property (Substantial Services will be Performed on State Property)
- A. Standard Group
    1. Contractor=s Liability Insurance (7B055)
    2. Indemnification B Third Party Claims (7B100)
- IX. Award / Offer by Item, Lot, or Both
- A. By Item
    1. Offering by Item (2B085)
    2. Award by Item (6005)
  - B. By Lot
    1. Offering by Lot (2B095)
    2. Award by Lot (6015)
  - C. Both
    1. Offering by Item or Lot (2B090)
    2. Awarding by Item or Lot (6010)

## APPENDIX - L

### **ITMO Standard Groups**

- I. Basic Groups
  - A. Standard
    - 1. Cover Page CIO (005)
    - 2. Page 2 (015)
    - 3. All Part Headers
    - 4. All Clauses in Part Two A
    - 5. Magnetic Media-Required Format (2B070)
    - 6. Protest B CPO BITMO Address (2B120)
    - 7. Information for Offers to Submit - General (4010)
    - 8. Minority Participation Affidavit (4015)
    - 9. Off Shore Contracting (4020)
    - 10. Qualifications of Offeror (5005)
    - 11. Competition From Public Entities (6057)
    - 12. All Clauses in Part 7A
    - 13. Important Tax Notice B Non-Residents Only (9005)
  - B. On-Line
    - 1. Cover Page CIO on-line (010)
    - 2. Page 2 (015)
    - 3. All Part Headers
    - 4. All Clauses in Part Two A
    - 5. On-Line Bidding Instructions (2B105)
    - 6. Protest B CPO BITMO Address (2B120)
    - 7. Information for Offers to Submit - General (4010)
    - 8. Minority Participation Affidavit (4015)
    - 9. Off Shore Contracting (4020)
    - 10. Qualifications of Offeror (5005)
    - 11. Competition From Public Entities (6057)
    - 12. All Clauses in Part 7A
    - 13. Important Tax Notice B Non-Residents Only (9005)
- II. Work Acquired Groups
  - A. Supply Contract
    - 1. Acquire Supplies/Equipment (1015)
    - 2. Descriptive Literature B Labeling (2B045)
    - 3. Delivery Date B By Purchase Order (3045)
    - 4. Quality B New (3060)
    - 5. Unit Price Governs (6075)
    - 6. CISG (7B030)
    - 7. Purchasing Card (7B200)
    - 8. Shipping / Risk of Loss (7B220)
    - 9. Year 2000 Warranty (7B285)
  - B. Services Contract
    - 1. Acquire Services (1010)
    - 2. Subcontractor B Identification (5030)
    - 3. Compliance with Laws (7B035)
    - 4. Contractor Personnel (7B060)
    - 5. Contractor=s Obligation B General (7B065)
    - 6. Relationship of the Parties (7B205)
  - C. Supply & Service Contract

## APPENDIX - L


1. Acquire Services & Supplies / Equipment (1005)
  2. Descriptive Literature B Labeling (2B045) +
  3. Delivery Date B By Purchase Order (3045)
  4. Subcontractor B Identification (5030)
  5. Unit Price Governs (6075)
  6. CISG (7B030)
  7. Compliance with Laws (7B035)
  8. Contractor Personnel (7B060)
  9. Contractor=s Obligation B General (7B065)
  10. Intellectual Property Infringement (7B105)
  11. Material and Workmanship (7B120)
  12. Relationship of the Parties (7B205)
  13. Shipping / Risk of Loss (7B220)
  14. Year 2000 Warranty (7B285)
- III. Source Selection Method Groups
- A. IFB
    1. Discussions with Bidders (2B055)
    2. Award Criteria B Bids (6020)
  - B. BVB
    1. Discussions with Bidders (2B055)
    2. Award Criteria B Best Value (6025)
    3. Evaluation Factors B Best Value Bid (6060)
  - C. FPB
    1. Discussions with Bidders (2B055)
    2. Award Criteria B Fixed Price Bidding (6023)
    3. Bids Received After Award B Fixed Price (6045)
  - D. RFP (Standard)
    1. Contents of Offer (RFP) B ITMO (2B035)
    2. Discussions with Offerors (2B060)
    3. Opening Proposals B Prices Not Divulged (2B110)
    4. Information for Offerors to Submit B Evaluation (4005)
    5. Award Criteria B Proposals (6030)
    6. Evaluation Factors B Proposals (6065)
    7. Negotiations (6070)
    8. Price Proposal (8015)
  - E. RFP (Solutions Based)
    1. Contents of Offer B RFP B Solutions Based (2B030)
    2. Discussion with Offerors (2B060)
    3. Business Proposals (8010)
- IV. Dollar Value / Size Groups
- A. Single Purchase Order < \$100,000
    1. Default B Short Form (7B080)
    2. Termination for Convenience Short-Form (7B260)
  - B. Single Purchase Order ≥ \$100,000
    1. Changes (7B025)
    2. Price Adjustments (7B160)
    3. Pricing Data-Audit-Inspection (7B185)
    4. Termination for Convenience (7B265)
    5. Default (7B075)
- V. Duration Group
- A. Multi Term



## APPENDIX - L

1. Maximum Contract Period - Estimated (1040)
  2. Term of Contract B Effective Date/Initial Contract (7B240)\
  3. Term of Contract B Option to Renew (7B245)
  4. Term of Contract B Termination by Contractor (7B250)
- VI. Indefinite Delivery Group
- A. ID/IQC
    1. Estimated Quantity B Purchases From Other Sources (7B090)
    2. Estimated Quantity B Unknown (7B095)
    3. Contract Limitations (7B045)
    4. Termination for Convenience B ID/IQC (7B255)
- VII. Number of Using Agencies Group
- A. Single Agency
    1. Delivery / Performance Location (3030)
  - B. Multi-Agency
    1. Delivery / Performance Location B Purchase Order (3015)
    2. Relationship of Using Governmental Units (7B210)
  - C. Statewide Term Contract
    1. Delivery / Performance Location B Purchase Order (3015)
    2. Acceptance of Offers 10% Below Price (7B010)
    3. Licenses and Permits (7B115)
    4. Contract Reporting Requirements (7B050)
    5. Relationship of Using Governmental Units (7B210)
    6. Statewide Term Contract (7B225)
    7. Statewide Term Contract - Scope (7B230)
- VIII. State Property (Substantial Services will be Performed on State Property)
- A. Standard Group
    1. Contractor=s Liability Insurance (7B055)
    2. Indemnification B Third Party Claims (7B100)
- IX. Award / Offer by Item, Lot, or Both
- A. By Item
    1. Offering by Item (2B085)
    2. Award by Item (6005)
  - B. By Lot
    1. Offering by Lot (2B095)
    2. Award by Lot (6015)
  - C. Both
    1. Offering by Item or Lot (2B090)
    2. Awarding by Item or Lot (6010)

## APPENDIX - O

	<h1 style="margin: 0;">State of South Carolina</h1> <h2 style="margin: 0;">RECORD OF DISCUSSIONS</h2>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;"><b>Solicitation Number</b></td> <td style="width: 10%;">:</td> <td style="width: 80%;"></td> </tr> <tr> <td>Procurement Officer</td> <td>:</td> <td></td> </tr> <tr> <td>Phone</td> <td>:</td> <td></td> </tr> <tr> <td>E-Mail Address</td> <td>:</td> <td></td> </tr> <tr> <td>Address</td> <td>:</td> <td></td> </tr> </table>	<b>Solicitation Number</b>	:		Procurement Officer	:		Phone	:		E-Mail Address	:		Address	:	
<b>Solicitation Number</b>	:																
Procurement Officer	:																
Phone	:																
E-Mail Address	:																
Address	:																

CONTRACT DESCRIPTION:

USING GOVERNMENTAL UNIT:

OFFEROR'S NAME AND ADDRESS:

**IMPORTANT NOTICE:**

Offeror is required to sign this document and return \_\_\_\_\_ copies to the procurement officer named above by the following date: \_\_\_\_\_.

Usage Instructions: The following provisions of the Procurement Code authorize limited discussions with offerors. The final results of such discussions should be memorialized using this form. Reference: Sections 11-35-1520(8), 11-35-1525(6), 11-35-1528(6), and 11-35-1530(6).

DESCRIPTION OF DISCUSSIONS:

(attach additional pages if necessary)

SIGNATURE OF PERSON AUTHORIZED TO SUBMIT  
BINDING OFFER TO ENTER A CONTRACT ON BEHALF OF  
OFFEROR:

By: \_\_\_\_\_  
(authorized signature)

\_\_\_\_\_  
(printed name of person signing above)

Its: \_\_\_\_\_  
(title of person signing above)

Date: \_\_\_\_\_

SIGNATURE OF PROCUREMENT OFFICER AUTHORIZED  
TO BIND USING GOVERNMENTAL UNIT REGARDING  
SOLICITATION:

By: \_\_\_\_\_  
(authorized signature)

\_\_\_\_\_  
(printed name of person signing above)

Its: \_\_\_\_\_  
(title of person signing above)

Date: \_\_\_\_\_

## APPENDIX - P

### APS Table of Clauses Appearing In Compendium

ClCatgCode	ClauseCode	ClauseRemarks
01HDR	001	COVER PAGE MMO
01HDR	005	COVER PAGE CIO
01HDR	010	CIO COVER PAGE ON-LINE
01HDR	015	PAGE TWO
01Scop	1001	SCOPE OF SOLICITATION
01Scop	1005	ACQUIRE SERVICES & SUPPLIES/EQUIPMENT (JAN 2006)
01Scop	1010	ACQUIRE SERVICES (January 2006)
01Scop	1015	ACQUIRE SUPPLIES / EQUIPMENT (January 2006)
01Scop	1020	BUDGET - DESIRED RANGE (January 2006):
01Scop	1025	BUDGET ESTIMATE (January 2006)
01Scop	1030	BUDGET MAXIMUM (January 2006)
01Scop	1035	FUNDS NOT AVAILABLE (January 2006)
01Scop	1040	MAXIMUM CONTRACT PERIOD -ESTIMATED (January 2006)
02AInG	2A001	II. INSTRUCTIONS TO OFFERORS - - A. GENERAL
02AInG	2A005	AMENDMENTS TO SOLICITATION (January 2006)
02AInG	2A010	AWARD NOTIFICATION (January 2006)
02AInG	2A015	BID / PROPOSAL AS OFFER TO CONTRACT (January 2006)
02AInG	2A020	BID ACCEPTANCE PERIOD (January 2006)
02AInG	2A025	BID IN ENGLISH & DOLLARS (January 2006)
02AInG	2A030	BOARD AS PROCUREMENT AGENT (January 2006)
02AInG	2A035	CERTIFICATION REGARDING DEBARMENT (January 2006)
02AInG	2A040	CODE OF LAWS AVAILABLE (JANUARY 2006)
02AInG	2A045	COMPLETION OF FORMS/CORRECTION OF ERRORS(Jan 2006)
02AInG	2A050	DEADLINE FOR SUBMISSION OF OFFER (January 2006)
02AInG	2A055	DEFINITIONS (January 2006)
02AInG	2A065	DRUG FREE WORK PLACE CERTIFICATION (January 2006)
02AInG	2A070	DUTY TO INQUIRE (January 2006)
02AInG	2A075	ETHICS ACT (January 2006)
02AInG	2A080	OMIT TAXES FROM PRICE (January 2006)
02AInG	2A085	PROTESTS (January 2006)
02AInG	2A090	PUBLIC OPENING (January 2006)
02AInG	2A095	QUESTIONS FROM OFFERORS (Janaury 2006)
02AInG	2A100	REJECTION/CANCELLATION (January 2006)
02AInG	2A105	RESPONSIVENESS / IMPROPER OFFERS (January 2006)
02AInG	2A110	RESTRICTIONS APPLICABLE TO OFFERORS (January 2006)
02AInG	2A115	SIGNING YOUR OFFER (January 2006)
02AInG	2A120	STATE OFFICE CLOSINGS (January 2006)
02AInG	2A125	SUBMITTING CONFIDENTIAL INFORMATION (January 2006)
02AInG	2A130	SUBMITTING YOUR OFFER OR MODIFICATION (Jan 2006)
02AInG	2A135	TAX CREDIT-SUB w/MINORITY FIRMS (January 2006)
02AInG	2A140	TAXPAYER IDENTIFICATION NUMBER (January 2006)
02AInG	2A145	VENDOR REGISTRATION MANDATORY (January 2006)
02AInG	2A150	WITHDRAWAL OR CORRECTION OF OFFER (January 2006)
02BInS	2B001	II. Instructions To Offerors--B. Special
02BInS	2B005	SECTION NOT APPLICABLE--INTENTIONALLY OMITTED
02BInS	2B010	BID BOND (January 2006)

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ClCatgCode	ClauseCode	ClauseRemarks
02BInS	2B015	BOARD APPROVAL REQUIRED (January 2006)
02BInS	2B020	CONFERENCE -PRE-BID/PROPOSAL -MANDATORY (Jan 2006)
02BInS	2B025	CONFERENCE --PRE-BID/PROPOSAL (January 2006)
02BInS	2B030	CONTENTS OF OFFER (RFP) -SOLUTIONS BASE (Jan 2006)
02BInS	2B035	CONTENTS OF OFFER -RFP -ITMO (January 2006)
02BInS	2B040	CONTENTS OF OFFER (RFP) -SPO (January 2006)
02BInS	2B045	DESCRIPTIVE LITERATURE - LABELLING (January 2006)
02BInS	2B050	DESCRIPTIVE LITERATURE - REQUIRED (January 2006)
02BInS	2B055	DISCUSSIONS WITH BIDDERS (January 2006)
02BInS	2B060	DISCUSSION WITH OFFERORS (January 2006)
02BInS	2B065	LEASE FORM-QUESTIONS (January 2006)
02BInS	2B070	MAGNETIC MEDIA - REQUIRED FORMAT (January 2006)
02BInS	2B075	MAGNETIC MEDIA -DEMO/PRESENTATION (January 2006)
02BInS	2B080	MAIL PICKUP (January 2006)
02BInS	2B085	OFFERING BY ITEM (January 2006)
02BInS	2B090	OFFERING BY ITEM OR LOT (January 2006):
02BInS	2B095	OFFERING BY LOT (January 2006)
02BInS	2B105	ON-LINE BIDDING INSTRUCTIONS (January 2006)
02BInS	2B110	OPENING PROPOSALS--PRICES NOT DIVULGED (Jan 2006)
02BInS	2B115	PRICE AS DISCOUNT (January 2006)
02BInS	2B120	PROTEST--CPO - ITMO (January 2006)
02BInS	2B122	PROTEST -- CPO - MMO (January 2006)
02BInS	2B125	QUALIFIED PRODUCTS LIST (January 2006)
02BInS	2B130	SAMPLES (January 2006)
02BInS	2B135	SAMPLES-TESTING (January 2006)
02BInS	2B140	SITE VISIT - BY APPOINTMENT (January 2006)
02BInS	2B145	SITE VISIT -- MANDATORY (January 2006)
02BInS	2b165	SITE VISIT (January 2006)
02BInS	2B170	UNIT PRICES REQUIRED (January 2006)
03SOW	3001	III. SCOPE OF WORK/SPECIFICATIONS
03SOW	3005	SEE BIDDING SCHEDULE
03SOW	3015	DELIVERY/PERFORMANCE LOCATION - PO ( JAN 2006)
03SOW	3020	DELIVERY/PERFORMANCE LOCATION- SPECIAL (JAN 2006)
03SOW	3025	DELIVERY DATE-- 30 DAYS ARO (January 2006)
03SOW	3030	DELIVERY/PERFORMANCE LOCATION-SPECIFIED (Jan 2006)
03SOW	3035	DELIVERY COSTS--EXEMPTION (January 2006)
03SOW	3040	DELIVERY DATE --SPECIFIED (January 2006)
03SOW	3045	DELIVERY DATE- BY PURCHASE ORDER (January 2006)
03SOW	3050	INSTALLATION (January 2006)
03SOW	3055	OPERATIONAL MANUALS (January 2006)
03SOW	3060	QUALITY - NEW (January 2006)
03SOW	3065	QUALITY -- REFURBISHED (January 2006)
03SOW	3070	QUALITY -- USED (January 2006)
03SOW	3075	TECHNICAL SUPPORT -- INCLUDED (January 2006)
03SOW	3080	TRAINING (January 2006)
04Info	4001	IV. INFORMATION FOR OFFERORS TO SUBMIT
04Info	4005	INFO FOR OFFERORS TO SUBMIT-EVALUATION (Jan 2006)
04Info	4010	INFO FOR OFFERORS TO SUBMIT-GENERAL (Jan 2006)

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ClCatgCode	ClauseCode	ClauseRemarks
04Info	4015	MINORITY PARTICIPATION (January 2006)
04Info	4020	OFFSHORE CONTRACTING (January 2006)
04Info	4025	RECYCLED PRODUCT (January 2006)
05Qual	5001	V. QUALIFICATIONS
05Qual	5005	QUALIFICATION OF OFFEROR (January 2006)
05Qual	5010	QUALIFICATIONS - MANDATORY MINIMUM (January 2006)
05Qual	5015	QUALIFICATIONS - REQUIRED INFORMATION (Jan 2006)
05Qual	5030	SUBCONTRACTOR-- IDENTIFICATION (January 2006)
06AC	6001	VI. AWARD CRITERIA
06AC	6005	AWARD BY ITEM (January 2006)
06AC	6010	AWARD BY ITEM OR LOT (January 2006)
06AC	6015	AWARD BY LOT (January 2006)
06AC	6020	AWARD CRITERIA - BIDS (January 2006)
06AC	6023	AWARD CRITERIA - FIXED PRICE (January 2006)
06AC	6025	AWARD CRITERIA - BEST VALUE (January 2006)
06AC	6030	AWARD CRITERIA -PROPOSALS (January 2006)
06AC	6035	AWARD TO MULTIPLE OFFERORS (January 2006)
06AC	6040	AWARD TO ONE OFFEROR (January 2006)
06AC	6045	BIDS RECEIVED AFTER AWARD--FIXED PRICE (Jan 2006)
06AC	6050	CALCULATING THE LOW BID
06AC	6055	CALCULATING LOW BID-MAINTENANCE (January 2006)
06AC	6057	COMPETITION FROM PUBLIC ENTITIES (January 2006)
06AC	6060	EVALUATION FACTORS--BEST VALUE BIDS (January 2006)
06AC	6065	EVALUATION FACTORS --PROPOSALS (January 2006)
06AC	6070	NEGOTIATIONS (JANUARY 2006)
06AC	6075	UNIT PRICE GOVERNS (January 2006)
07ATer	7A001	VII. TERMS AND CONDITIONS - A. GENERAL
07ATer	7A004	ASSIGNMENT (January 2006):
07ATer	7A005	BANKRUPTCY (January 2006)
07ATer	7A010	CHOICE-OF-LAW (January 2006)
07ATer	7A015	CONTRACT DOCUMENTS/ ORDER OF PRECEDENCE (Jan 2006)
07ATer	7A020	DISCOUNT FOR PROMPT PAYMENT (January 2006)
07ATer	7A025	DISPUTES (January 2006)
07ATer	7A030	EQUAL OPPORTUNITY (January 2006)
07ATer	7A035	FALSE CLAIMS (January 2006)
07ATer	7A040	FIXED PRICING REQUIRED (January 2006)
07ATer	7A045	NON-INDEMNIFICATION (January 2006)
07ATer	7A050	NOTICE (January 2006)
07ATer	7A055	PAYMENT (January 2006)
07ATer	7A060	PUBLICITY (January 2006)
07ATer	7A065	PURCHASE ORDERS (January 2006)
07ATer	7A070	SETOFF (January 2006)
07ATer	7A075	SURVIVAL OF OBLIGATIONS (January 2006)
07ATer	7A080	TAXES (January 2006)
07ATer	7A085	TERMINATION---UNAVAILABILITY OF FUNDS (Jan 2006)
07ATer	7A090	THIRD PARTY BENEFICIARY (January 2006)
07ATer	7A095	WAIVER (January 2006)
07BTeS	7B001	VII. TERMS AND CONDITIONS -- B. SPECIAL

## APPENDIX - P

ClCatgCode	ClauseCode	ClauseRemarks
07BTeS	7B005	SECTION NOT APPLICABLE
07BTeS	7B010	ACCEPTANCE OF OFFERS 10% BELOW PRICE (Jan 2006)
07BTeS	7B015	ADMINISTRATIVE FEE - ITMO (January 2006)
07BTeS	7B020	FEE FOR ADMINISTRATIVE SERVICES-- SPO (Jan 2006)
07BTeS	7B025	CHANGES (January 2006)
07BTeS	7B030	CISG (January 2006)
07BTeS	7B035	COMPLIANCE WITH LAWS
07BTeS	7B040	CONFERENCE --PRE-PERFORMANCE (January 2006)
07BTeS	7B045	CONTRACT LIMITATIONS (January 2006)
07BTeS	7B050	CONTRACT REPORTING REQUIREMENTS (January 2006)
07BTeS	7B055	CONTRACTOR'S LIABILITY INSURANCE (January 2006)
07BTeS	7B060	CONTRACTOR PERSONNEL (January 2006)
07BTeS	7B065	CONTRACTOR'S OBLIGATION-- GENERAL (January 2006)
07BTeS	7B067	CONTRACTOR'S USE OF STATE PROPERTY (January 2006)
07BTeS	7B070	DAMAGES LIMITATION (January 2006)
07BTeS	7B075	DEFAULT (January 2006)
07BTeS	7B080	DEFAULT-- SHORT FORM (January 2006)
07BTeS	7B085	DISPOSAL OF PACKAGING (January 2006)
07BTeS	7B090	ESTIMATED QUANTITY - PURCHASES FROM OTHER SOURCES
07BTeS	7B095	ESTIMATED QUANTITY - UNKNOWN (January 2006)
07BTeS	7B100	INDEMNIFICATION -THIRD PARTY CLAIMS (January 2006)
07BTeS	7B105	INTELLECTUAL PROPERTY INFRINGEMENT (January 2006)
07BTeS	7B115	LICENSES AND PERMITS (January 2006)
07BTeS	7B120	MATERIAL AND WORKMANSHIP (January 2006)
07BTeS	7B125	OWNERSHIP OF DATA & MATERIALS (January 2006)
07BTeS	7B130	PACK SIZE- BUNDLING (January 2006)
07BTeS	7B135	PACKAGING (January 2006)
07BTeS	7B140	PALLETIZING (January 2006)
07BTeS	7B145	PARTIAL SHIPMENTS (January 2006)
07BTeS	7B150	PERFORMANCE BOND REQUIRED- ITMO (January 2006)
07BTeS	7B155	PERFORMANCE BOND REQUIRED (January 2006)
07BTeS	7B160	PRICE ADJUSTMENTS (January 2006)
07BTeS	7B165	PRICE ADJUSTMENT/LIMITED (January 2006)
07BTeS	7B170	PRICE ADJUSTMENTS- CPI -ALL ITEMS(January 2006)
07BTeS	7B175	PRICE ADJUSTMENT-CPI-GOODS & SERVICES (Jan 2006)
07BTeS	7B180	PRICE ADJUSTMENTS --LIMITED BY PPI (January 2006)
07BTeS	7B185	PRICING DATA-AUDIT-INSPECTION (January 2006)
07BTeS	7b190	PRINTING MANUAL (January 2006)
07BTeS	7b195	PRIVACY-- WEB SERVICES (January 2006)
07BTeS	7B200	PURCHASING CARD (January 2006)
07BTeS	7B205	RELATIONSHIP OF THE PARTIES (January 2006)
07BTeS	7B210	RELATIONSHIP OF USING GOVEN UNITS (January 2006)
07BTeS	7B215	SOFTWARE LICENSES (January 2006)
07BTeS	7B220	SHIPPING/RISK OF LOSS (January 2006)
07BTeS	7B225	STATEWIDE TERM CONTRACT (January 2006)
07BTeS	7B230	STATEWIDE TERM CONTRACT--SCOPE (January 2006)
07BTeS	7B235	STORAGE OF MATERIALS (January 2006)



## APPENDIX - P

ClCatgCode	ClauseCode	ClauseRemarks
07BTeS	7B240	TERM OF CONTRACT-EFFECTIVE DATE/INITIAL (Jan 2006)
07BTeS	7B245	TERM OF CONTRACT-OPTION TO RENEW (January 2006)
07BTeS	7B250	TERM OF CONTRACT-TERM. BY CONTRACTOR (Jan 2006)
07BTeS	7B255	TERMINATION/ CONVENIENCE-INDEFINITE DEL (Jan 2006)
07BTeS	7B260	TERMINATION FOR CONVENIENCE-SHORT (January 2006)
07BTeS	7B265	TERMINATION FOR CONVENIENCE
07BTeS	7B270	WAIVER OF CLAIMES/ CONSEQUENTIAL DAMAGES(Jan 2006)
07BTeS	7B275	WARRANTY-ONE YEAR (January 2006)
07BTeS	7B280	WARRANTY -STANDARD (January 2006)
07BTeS	7B285	YEAR 2000 WARRANTY (January 2006)
08BS	8001	VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL
08BS	8005	SECTION NOT APPLICABLE-INTENTIONALLY OMITTED
08BS	8010	BUSINESS PROPOSAL (January 2006)
08BS	8015	PRICE PROPOSAL (January 2006)
09Atta	9001	IX. ATTACHMENTS TO SOLICITATION
09Atta	9005	IMPORTANT TAX NOTICE - NONRESIDENTS ONLY
09Atta	9010	OFFEROR'S CHECKLIST
09Atta	9015	STANDARD EQUIPMENT AGREEMENT
10Awar	A001	X. AWARD
10Awar	A005	AWARD - CANCELLED-DETERMINATION
10Awar	A010	AWARD - CANCELLED--PROTEST DECISION
10Awar	A015	AWARD - ONE RESPONSE RECEIVED
10Awar	A020	AWARD - PARTIAL ONLY
10Awar	A025	AWARD - REINSTATED
10Awar	A030	AWARD--RVP
10Awar	A035	AWARD - SC/US MADE
10Awar	A040	AWARD - SUSPENDED
10Awar	A050	CERTIFICATES OF INSURANCE
10Awar	A055	MAXIMUM CONTRACT PERIOD
10Awar	A060	NO AWARD -- ALL OFFERS NON-RESPONSIVE:
10Awar	A065	NO AWARD--FUNDS EXPIRED
10Awar	A070	NO AWARD--- ITEMS UN-NEEDED
10Awar	A075	NO AWARD-- NO BIDS RECEIVED
10Awar	A080	NO AWAR-- PRICE EXCESSIVE
10Awar	A085	NO AWARD-- RESOLICITE SELECTED ITEMS
10Awar	A090	NON-RESPONSIVE LOW OFFER(S)
11Form	1101	CHANGE ORDER (January 2006)
11Form	11010	INSTRUCT FOR SUBMITTING COST PRICE DATA (Jan 2006)
11Form	1105	RECORD OF NEGOTIATIONS (January 2006)